 <p><b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b></p> <p>ANDREW M. CUOMO Governor</p> <p>ANTHONY J. ANNUCCI Acting Commissioner</p>	Grievance Number <b>ECF-26147-14</b>	Design /Code <b>I/49</b>	Date Filed <b>12/10/14</b>
	Associated Cases		Hearing Date <b>4/29/15</b>
	Facility <b>Eastern NY Correctional Facility</b>		
<b>INMATE GRIEVANCE PROGRAM</b> <b>CENTRAL OFFICE REVIEW COMMITTEE</b>		Title of Grievance <b>Harassment/Retaliation</b>	

### **GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART**

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that this matter has been properly investigated by the facility administration. CO W... randomly pat frisked the grievant on 12/7/14 and found a slit cut into the waistband of his pants. Sgt. C... directed CO W... to frisk the grievant's cell; he confiscated four similar pairs of pants and denies being unprofessional. CORC asserts that there is no requirement in Department policy for a sergeant to authorize a pat frisk, and notes that religious headwear must be removed during a frisk to allow security staff to visually inspect the hair. In addition, Lt. M... and Co C... both deny harassing the grievant or being otherwise unprofessional. It is noted that he was issued a misbehavior report on 12/9/14 because his hairstyle was non-compliant with Directive #4914 and he is currently keeplocked. Staff indicate that the grievant changes his hairstyle prior to disciplinary hearings to be in compliance, but changes it back after hearings are complete.

CORC notes that Directive #4040, Section 701.1, states, in part, that the grievance program is not intended to support an adversary process and Section 701.6 (b) states, in part, that no reprisals of any kind shall be taken against an inmate or employee for good faith utilization of this grievance procedure. An inmate may pursue a complaint that a reprisal occurred through the grievance mechanism.

CORC notes that the grievant may write to whomever he wishes regarding this complaint, as long as they are not on his Negative Correspondence and Telephone List. CORC advises him that he may initiate a Freedom of Information Law Request (FOIL) for consideration to obtain the documents he is requesting in accordance with existing facility procedures, and to address safety matters to area supervisory staff.

With respect to the grievant's appeal, CORC notes that he did not identify any witnesses in either the instant complaint or upon interview with Captain W... on 12/12/14 and finds insufficient evidence of malfeasance by staff. He is advised to address correspondence issues to mailroom staff, and medical concerns via sick call.

CMV/rjq

RECEIVED  
COMMUNITY SUPERVISION

**Eastern NY Correctional Facility**  
**CASE HISTORY AND RECORDS**

RECEIVED  
INMATE GRIEVANCE

**GRIEVANCE:** #26147-14

**NAME:** Fox, J

**DIN:** 12B1626

**TITLE:** Alleges harassment/retaliation

**CODE:** I-49

**INSTITUTIONAL/DEPARTMENTAL:** ECF

**DATE FILED:** 12/10/14

**IGRC HEARING DATE:** NONE

**SUPERINTENDENT DATE:** 12/24/14

**APPEAL DATE:** 12/26/14

**INVESTIGATION**

**IGRC INVESTIGATION DATE:** \_\_\_\_\_

**FACILITY POLICY #** \_\_\_\_\_

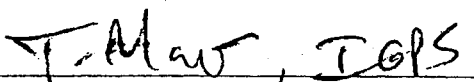
**CAPTAIN DATE:** \_\_\_\_\_

**SUPERVISOR DATE:** \_\_\_\_\_

**EMPLOYEE DATE:** \_\_\_\_\_

**PRIOR CORC:** \_\_\_\_\_

**OTHER:** \_\_\_\_\_

  
\_\_\_\_\_  
Mr. Mauro, IGP Supervisor

**EASTERN NEW YORK CORRECTIONAL FACILITY**  
**CASE HISTORY**

**NAME:** Fox, J  
**ECF:** #26147-14  
**TITLE:** Alleges harassment/retaliation  
**INVESTIGATION:**

**CODE:** I-49  
**REFERENCE:**  
**SUPT.:** W. Lee

**GRIEVANCE:** [12/10/14] Grievant contends that he is being continuously harassed and threatened due to his hair style.

**ACTION REQUESTED:** That investigation be held and suspend officers and members of administration. Wants to press criminal charges on administration. Wants to be left alone about hairstyle. No retaliation for this grievance.

**IGRC RECOMMENDATIONS:** ☐ NONE

**SUPERINTENDENTS RESPONSE:** [12/24/14] The grievant's grooming standards (current hairstyle) was reviewed by the Capt., DSS and Imam. In each case, the grievant was advised that his current hairstyle is not within established departmental guidelines. The grievant has been told on several occasions that his current hairstyle is considered to be a combination of two separate styles and is not in compliance. It should be noted that misbehavior reports can be written regardless of prior dismissals that occur during the hearing for like/similar charges if justified and are reviewed on an individual basis on their own merits. The grievant's ability to meet standards at one particular time does not preclude staff from taking actions including disciplinary action on their occasions when he is not in compliance. The grievant is expected to maintain grooming standards at all times.

The grievant allegations could not be substantiated. No malice by staff is noted.

\*\*\*Grievance is denied.

**APPEAL TO CORC:** [12/29/14] I never changed hairstyle, Supt. failed to hold officers accountable for abandoning there post, frisking me and my cell without a supervisor and Dep. and Supt. failed to investigate Dep. Of Security and Capt. For failure to investigate official misconduct. (See attached for continuation).

**P. APPEAL CLERK**

EASTERN CORRECTIONAL FACILITY  
INMATE GRIEVANCE PROGRAM  
Inter-Departmental Communication

TO: William A. Lee, Superintendent

FROM: Thomas Mauro, IGP Supervisor

DATE: 12/10/14

SUBJECT: Initial Superintendent Review of Grievance Coded 49

Grievance Number: ECF - 26147-14

Grievant's Name: Fox DIN 12B1626

Grievant's Name: DIN

Grievant's Name: DIN

Grievant's Name: DIN

Grievant's Name: DIN

Attached is a grievance pertaining to staff conduct (CODE 49). Please review within 24 hours, and note your findings:

Superintendent's Initials 

Date Reviewed 12/10/14

☒ I concur with the filing of this grievance as being coded 49.  
An investigation by Capt. can proceed.

☐ I do not concur with the filing of this grievance as being coded 49.  
The following action should be taken:

Please return the attached to the IGP Supervisor.

cc: File

Thank you.

STATE OF NEW YORK-DEPARTMENT OF CORRECTIONAL SERVICES  
INMATE GRIEVANCE COMPLAINT

FORM 2131 (REV 9/14)

49 Alleges Harassment  
retaliation

Grievance No.

26147-14

EASTERN N.Y. CORRECTIONAL FACILITY

Date 12-8-14

Name J. FOX

Din# 12B1626

Housing Unit 8A-12-18

Program \_\_\_\_\_

AM \_\_\_\_\_

PM \_\_\_\_\_

(Please Print or Type - This form must be filed within 21 days of Grievance Incident)

Description of Problem: (Please make as brief as possible) \_\_\_\_\_

(See Attached)

Grievant's Signature \_\_\_\_\_

Grievance Clerk \_\_\_\_\_

DEC 10 REC'D

Date: \_\_\_\_\_

Advisor Requested YES NO Who: \_\_\_\_\_

Action Requested by inmate: \_\_\_\_\_

This Grievance has been informally resolved as follows: \_\_\_\_\_

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant's Signature \_\_\_\_\_

Date: \_\_\_\_\_

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

\* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

STATE OF NEW YORK - DEPARTMENT  
OF CORRECTIONAL SERVICES  
INMATE GRIEVANCE COMPLAINT

Grievance No.

Eastern Correctional Facility

26147-14

JAVELL FOX 12B1626 SH-12-18

on November 9, 2014 I was written a complaint Misbehavior Report by officer skred on the 7-3<sup>PM</sup> shift. officer skred stated that my hair was not in compliance with Directive 4914 of inmate grooming standards. It ~~was~~<sup>madison</sup> sent her to investigate my hair and upon his orders she did so. on November 12, 2014 I was given a hearing on the ticket for disobeying a direct order. on that date I was found not guilty of the charges and according to law and Directive 4914 my hair is in compliance with grooming standard. I have locks and the sides of my hair cut. I also wear a religious head piece, I was registered Rasta and now I'm registered N.O.I. Religious Head pieces is also permitted. officers continuously force me to remove my religious head wear, violating my right to religious practice.

on December 7<sup>th</sup> 2014 I was placed on keeplock status after officer cruz directed officer williamson on the 7-3 shift after lunch chow to pull me over and aggressively search me, taking off my boots, unbuttoning

sent back to my allergy housing unit. Officer Williamson came to my Housing cell 15 or 10 minutes later to search the cell I'm Housing in, he asked me if I knew why he was here I told him no. he stated because Officer Lieutenant Madison gave me a direct order 1st month and I failed to comply, however officer Lieutenant never saw my hair after he directed me to take my locks out of a corn row, which I did immediately and never put my locks back in a corn row. so for officer Williamson and Cruz to Harass in the manner of A pat search that was degrading, cell search that was degrading and a misbehavior (keeplock) report for the same issue I had a hearing on, on November 12, 2014 and Lt Simmons per directive said Hair cut / style is permitted and that misbehavior report was dismissed, officer Cruz, officer Williamson, and Lt Madison <sup>are</sup> exceeding the scope of their duty. when I made officer Williamson aware

that Lt Simmons dismissed the ticket I received for this same issue, officer Williamson stated that Lt Simmons "doesn't know <sup>anything</sup> ~~any~~, he doesn't know how things work around here, Lt Madison does." However Lt Madison happens to be white, Lt Simmons happens to be black and I'm black and officer Williamson is white, so the black lieutenant is wrong at interpreting a directive primarily defining black hair but a white lieutenant is not. this is clearly Harassment and a Racial Attack. I have witnesses that can verify my claims of officer Williamson prejudice against his own lieutenant, this is also an infringement on my religion by officers constantly forcing me to take my religious headwear off. officer Williamson also stated that he was searching me and my cell because of my hair, officer ~~008~~ Cruz was not on his post.

0561 01147-1



Action requested: I request that officer cruz and officer williamson get a Drug test and a mental evaluation. I request that no Drug or weapons be planted on my person or in my Assigned cell as well as no urine tests by officers that coincidentally comes up positive for Drugs, and I request to be free from officers assaults and lies that I assaulted first so they protected themselves, these are all tactics that officers use to punish inmates for using the Grievance system. Lieutenant <sup>conspired</sup> madison complained to officer cruz and officer cruz ~~and~~ <sup>to write</sup> officer Williamson ~~wrote~~ me complaint misbehavior reports, searched my person and assigned cell in a Degrading manner, without permission from no Authority of them, this is gang activity. I request also to be left alone, and not harassed and released from keeplock status. officer cruz and williamson also need to be suspended. I would like to <sup>be</sup> assisted in filing Harassment criminal charges against officer cruz and officer williamson and Lt wilson. I fear for my safety.

cc I.G

cc commissioner

cc Attorney General

cc Governor

Furthermore sgt connor authorized officer williamson to search my assigned cell. so basically because of my hair and the way I look sgt connor okayd further Harassment and also went against Lt simmons disposition. sgt connor has harassed me in the past and also need a Drug Test, mental evaluation and suspension. C.O cruz has numerous complaints of Assault and harassment against him, and continues to be a threat to inmates safety on November 30, 2014 C.O cruz told Lt madison that if he see me he's gonna write me up, since C.O cruz was not on his post and Abandoned his post to point me to C.O williamson and accompanying officers he couldn't write the tickets so he had officer williamson do it, these are criminal behavior that I've within eastern by correctional officials. I notified my family and Attorney about the ongoing issue, they are prepared to notify the Governor Andrew Cuomo, the Attorney General, and ABC News, sarah wallace to shine light on the Abuse by <sup>009</sup> officers and their superiors at this Prison, <sup>0595</sup>

JAVELL FOX 12B1626 SH 12-18  
12-14-14

Consolidate  
26147-14

Grievance No

Eastern Correctional Facility

on 12-12-14 I was called out to speak to the security captain pertaining to a complaint that wrote about Lt Madison, C.O Cruz and C.O Williamson, and Grievance that I filed for retaliation and Harassment stemming from a ticket (Misbehavior report) that I received from officer szkred # For Disobeying a Direct order from Lt madison. this ticket was given to me on 11-9-14 and a hearing was held on 11-12-14 and the Hearing officer Lt simmons found me not guilty and stated that my Haircut / Hairstyle was Allowed per Directive 4914 and law.

on 12-7-14 I received a misbehavior report for the same issue. on 12-12-14 Captain stated to me that my hair was not in compliance and he clearly misintrepets the Directive that states 'Dreadlocks' can not be woven, Twisted or ~~be~~ corn rolled together.

The Captain said that my locks are twisted therefore my hair is not in compliance. also my hair is cut on the side and said that that is

Two different hairstyles and is in further in- 76147-11  
compliance. In the Directive Hairstyles states  
corn row Braids and Dreadlocks, so I could under-  
stand if I had corn row braids on the side and  
locks on the top this would be a violation. By  
my hair being cut on the sides and lock on the  
top neatly groomed is one hair style.

My Religion is Rastafarian and I adhere  
to the strict custom of my Native Cherokee  
Ancestry and my Hairstyle is a cultural symbol,  
that represents the bear turning into the Hawk,  
which means from land to sky, spiritual rebirth.

Captain also stated that if I don't cut  
my hair by the time I go to my hearing I'm  
gonna be found guilty. so my hearing is now  
predetermined which is a violation of my  
constitutional right to due process by him  
being the investigation captain influencing the  
hearing officers decision and ability and obligation  
to be impartial Francis v Coughlin 891 F.2d 43,46  
(2d Cir 1989) and he is also infringing on my  
Right to Religion under section 610(3) of  
the New York corrections law. my Hairstyle is  
a spiritual religious symbol and is no threat  
to the order, safety or security of the Prison.

Furthermore I made captain aware  
verbally which he was already aware orally  
that I had been frisked physically by officers  
because of my hairstyle, officer Cruz abandoned  
his post to direct officers and show them who

I WAS, and Sgt okayed officers to further 261424  
frisk my cell for no reason concerning safety  
or security only to execute a cell to find  
item that I cant have or any little thing to  
Add more charges to the misbehavior report to  
assure that I confined to my cell after the  
hearing.

Captain was not concerned with this AND  
justified the Sgt and officers malicious  
conduct, he had predetermined to state that  
my hair was not in compliance by Highligh-  
ting the same subdivisions that the officer  
quoted which is idiotic and violates my civil  
and constitutional rights the captain is bias,  
and by him influencing the hearing officer HE  
is breaking correction rules. I also told the capt.  
that when I came back from the hearing officer Cruz  
and his co-worker was teasing me and telling me to say some  
thing now and making chicken quacks  
like they were Highschool teenage  
bullies. Capt didn't care.

Action requested

I request to be allowed to wear my  
hairstyle, it is a religious symbol of strength,  
peace and growth, and for the captain to  
be explained the importance of protecting  
prisoners constitutional rights and by him  
supporting or agreeing with officers abandoning  
there post, to point out a inmate, frisk him,  
then the Sgt okay's a cell search all because  
of a inmates hairstyle that poses no threat  
to safety and security is a contradiction  
of his rank.

JAVEL FOX 1251626 SH-12-18

Dec-18-2014

CC: Superintendent

Consolidate

26147-4

Eastern Corr Fac

Grievance no:

Today I spoke with Dep Russo, I was spoken to like a degenerate Embasil, I come to that conclusion by the tone of his expression of words. He told me to take that off let me see, you hiding it, take that off, he's referring to my religious head wear, no respect at all, furthermore he already predetermined his ruling on what he thought my Hair should be, of course, not in compliance.

he spoke about the captains decision on my Hair and agreed, "of course", he spoke nothing about the captains failure to investigate and possibly covering for officers misconduct.

The official staff here is Egoistical, they have no interest in me and do not see me as a human being just a Prisoner, officials here from what I've seen through only see each other as human and is only out to protect each others interest, no ~~matter~~ matter how much harm they cause me, ~~superintendent~~ <sup>superintendent</sup> if a Samdrai was to be housed in ~~this~~ <sup>this</sup> Prison, and he had all his hair shaved off on the side part of the top and part off the back and one ponytail with a braid representing his religious

"middle, ~~while~~ <sup>representing</sup>

Culture, would you keep sending officials to inspect his hair or would you make a decision or direct those of who you send to make a decision based on Correction Law section 60(1) Right to Religion 1st Amendment, its common sense that the directive cant list every ~~haircut~~ / Haircut that entitles a Hairstyle. the Directive Donot say my Hairstyle is not permitted and NY Cor Law 60(1) allows me to express my religion as long as im not disrupting the order of the facility or threatening safety and security, I'm a true descendant of the Cherokee natives and I acknowledge Halle Selassie I the last king of Ethiopia as the true and living God which holds the wisdom of the path that man should follow, my Hairstyle is Holy Religious I request that you allow me to ~~express~~ express my religion, thats a Constitutional Right. Der Russo stated that if I dont cut my hair or grow my hair (of course he did not say that me twisting my locks was Against Directive like the captain did) I'm gonna remain confined, who is he to disregard Correction Law 60(1) or do he know it and if he dont r/e's not trained properly. However He should know the Constitution and Der Russo is clearly violating my Constitutional Right.

Samuel

Action requested! to be Allowed to Express my beliefs and reflect the consciousness that require under the U.S Const N.Y state

JGvell Fox 12B11-26 SM 12-18 12-20-17

Eastern Correctional Facility

Consolidate  
Grievance No.  
26147-14

On 12/17/14 I received a memorandum from Dep Russo pertaining to our meeting on 12-16-14.

Dep Russo is falsifying documents intentionally, Dep Russo on above date at the lobby of South hall he conspired with a female officer and concocted the lie at that time that states my hair was ~~only~~<sup>in</sup> a braided style that forms pockets. As the Dep of security he's competent at crafting memos for his higher official that use the rules to punish me at the expense of him falsifying documents, because a picture was taken of my hair the same day we spoke, that will prove Dep Russo is a liar, criminal and has no integrity.

Action Requested

I want to file criminal charges in this matter. Equal protection of the law. If I break a rule or the law I'm immediately punished, these officials such as Dep Russo need to criminally investigated and punished after the fact findings to deter future behaviors like falsifying documents to lie for peers and cover up and sweep under the rug official misconduct. Lying and lying on a inmate. This is



JAVELL FOX 12B1626 54-12-18 (12/15/17)  
 complaint FOR captain chetti

(49)  
 FM.

26197-14  
 consider  
 Grievance No.

## EASTERN CORRECTIONAL FACILITY

I received the outcome of captain's investigation  
 (of grievances that I filed and complaints I wrote) in  
 writing.

I am awestruck to see how incompetent the captain  
 is acting and how much he lacks integrity, the super-  
 intendant has a liar for a captain and as a security  
 captain he can not be trusted.

Captain states officer williamson gave a memo  
 explaining ~~that~~ <sup>that</sup> he pat frisked me and at that  
 time he felt a slit on the inside the waistband form-  
 ing pockets then he frisked my assign cell. However  
 what was the reason he frisked me captain failed to  
 state that, he also failed to investigate officer  
 Cruz for abandoning his post just to point me  
 out to officer williamson and officer waugh,  
 also officer ~~waugh~~ ~~waugh~~ waugh was not there  
 when officer williamson came to frisk my assigned  
 cell as captain stated he was sent by sgt. he  
 never came because no sgt sent williamson I  
 told him my cell location and he came on his  
 own alone, and I have a witness that heard  
 william say why he came (because of my hairstyle),  
 and heard officer williamson when he said to me  
 he see a pattern in my pants they all have slits  
 in them, then he left out of the cell, told me to  
 get on the gate and he then felt my band to see if  
 the pants I ~~had~~ <sup>on</sup> had slits in them which they did.

He states that he finds no employee misconduct,  
 is this was a test for him to get hired, to find employee



I WAS, and S + OKayed officer to further to frisk my cell for no reason concerning safety or security only to execute a cell to find item that I cant have or any little thing to Add more charges to the misbehavior report to assure that I confined to my cell after the hearing.

Captain was not concerned with this AND justified the Sgt and officers malicious conduct, he had predetermined to state that my hair was not in compliance by highlighting the same subdivisions that the officer quoted which is idiotic and violates my civil and constitutional rights the captain is bias, and by him influencing the hearing officer HE is breaking correction rules. I also told the capt that when I came back from the hearing officer and his co-worker was teasing me and telling me to say something now and making chicken quacks like they were Highschool teenage bullies, capt didn't care.

Action requested

I request to be allowed to wear my hairstyle, it is a religious symbol of strength, peace and growth, and for the captain to be explained the importance of protecting prisoners constitutional rights and by him supporting or agreeing with officers abandoning their post, to point out a inmate, frisk him, then the Sgt OKays a cell search all because of a inmates hairstyle that poses no threat to safety and security is a contradiction of his rank.

misconduct and if I did not he would or never got hired, so since he was sent to do an investigation and found no employee misconduct he should be suspended. For one officer Cruz abandoning his post to point me out to get me searched is definitely employee misconduct, and for Captain to not even mention shows hes trying to cover for the employees misconduct, which makes him an accomplice to officers and lieutenant criminal action. 2 Captain never spoke about why I was pat frisked and who okayed that, why because no one okayed it and this is further him trying to cover up for employees misconduct, and then making up an elaborate story for why ~~they~~<sup>he</sup> came (because of my pants having slits in them) to ~~search me~~<sup>the cell</sup>, but I have a witness that can attest to him stating clearly why he came to frisk my assigned cell (because of my hairstyle etc.) no Sgt gave permission ~~the~~ he may have backlogged it with Sgts permission, I'm sure of that the Captain covers up for security staff, lieutenants and Sgts do the same officers police themselves and act as tyrants when ever they choose, and if Captains like the Captain that the Superintendent sent to investigate that'll cover up employee misconduct, Hes a criminal, Bias prejudice, and his action are intentional not negligent he also failed to speak about me telling him about Cruz Harboring and taunting me on 12/11/14 an incident in which I just filed a grievance on

Actions requested

Captain needs to be suspended. I request an employee rule book, and for the log of my frisk and cell search to be put in file and preserved.

CC Commissioner  
CC Governor  
CC Attorney General  
CC I.G.

DEC 16 REC'D

261487-14

Javell FOX 12 626 SH-12-18 12-14-12

Grievance No

26147-14

Eastern correctional facility -

On 12-11-14 officer cruz and his co-worker during the 7-3<sup>rd</sup> shift at south hall lobby saw me coming back from my hearing and officer cruz began to tease me and taunt me calling me mr keeplock, and telling me to say something now in a provoking manner because he read the complaint I wrote about him Abandonin his post and directing officers to frisk me because of my hairstyle, officer cruz co-worker he began to make chick quack noises at me and cruz continued to verbally annoy me by saying Yea I thought you gint have nothing to say. there actions were like teenage Highschool Bullies. Im begining to get headaches because of the constant Harassment.



Action requested

that officer cruz get a urine test and a mental evaluation, and be ordered to leave me alone.

26147-14

DEC 16 2014

Received 12/29/14  
Javell 879  
SH-16-004

GRIEVANT FOX, JAVELL	DIN # 12B1626	HOUSING UNIT <del>HS-02-101</del>
STATE OF NEW YORK    DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  INMATE GRIEVANCE PROGRAM  SUPERINTENDENT WILLIAM A. LEE	GRIEVANCE NO. 26147-14	DATE FILED 12/10/14
	FACILITY Eastern Correctional Facility	POLICY DESIGNATION I
	TITLE OF GRIEVANCE Alleges Harassment/Retaliation	CLASS CODE 49
	SUPERINTENDENT'S SIGNATURE 	DATE 12/24/14

Grievant complains that he is being harassed and retaliated against as a result of his hairstyle.

The grievant's grooming standards (current hairstyle) was reviewed by the Captain, DSS and Imam. In each case the grievant was advised that his current hairstyle is not within established departmental guidelines. The grievant has been told on several occasions that his current hairstyle is considered to be a "combination" of two separate styles and is not in compliance. It should be noted that misbehavior reports can be written regardless of prior dismissals that occur during the hearing process for like/similar charges if justified and are reviewed on an individual basis on their own merits. The grievant's ability to meet standards at one particular time does not preclude staff from taking actions including disciplinary action on other occasions when he is not in compliance. The grievant is expected to maintain grooming standards at all times.

The grievant's allegations could not be substantiated. No malice by staff is noted.

\*\*\*Grievance is denied.

WL: tm

#### APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent please sign and date below and return to the IGRC Office. You have seven (7) calendar days from receipt of this notice to file your appeal. Please state why you are appealing this decision to C.O.R.C..

I never changed Hairstyle, Superintendent failed to Hold off-  
icers Accountable for abandoning there Post, Frisking me and  
my Cell without A supervisor and Dep and Super Intendant - Bala  
attach



GRIEVANT'S SIGNATURE



DATE

GRIEVANCE CLERK'S SIGNATURE

DATE

\*An exception to the time limit may be requested under Directive #4040, section 701.6 (g).

Jawell Fox 17 1626 December 26, 2014 South Hall 10 1

Superintendent's  
GRIEVANCE

## EASTERN CORRECTIONAL FACILITY

Superintendent failed to investigate Dep of security and Security Captain for failure to investigate official misconduct, Superintendent allowed Officer Cruz to Abandon his post, he allowed Officer Williamson and Officer Wough to frisk me without Approval from there supervisor he also Allowed these same set of officers or rather Officer Williamson to frisk my cell without permission from his supervisor, all because of my Hair. Lt Madison and Officer Cruz conspired this whole ordeal a week prior to it occurring I have a witness that attest to this Superintendent Allowed me to get an Affirmed decision By DSS Russo who I wrote a grievance on and out of Retaliation he Affirmed my penalty of 30 Days keeplock, 30 Days loss of rec, 30 Days loss of phones, and 30 Days loss of package, Superintendent is allowing officers and higher officials to pressure me into cutting my Mohawk, with locks in it, which is properly groomed and a symbol of my Native Americans Heritage, and Rastafarian Belief, protected under the Constitution and NYCORR law 610, Superintendent is also allowing for me to be held Double Jeopardy, on Lt name Simmons found my Dread Hawk/Bear Hawk to be in compliance and I got to misbehavior report for the same thing. Superintendent also is not Assuring that the facility is safe, while I'm on keeplock I had to climb a chair and VP the Bars to get my Breakfast lunch and dinner, I ended up falling Down on the chair and having to be

carried to medical Hospital in the facility, given steroids, shot to walk, and Hospitalized in infirmary for 3 days from the 23<sup>rd</sup> of December to the 26<sup>th</sup> of December and now I walk with a cane, because Eastern Correctional cells at South Hall where I lock are not fit for keep-lock and After I got out of Hospital they put me right back in South hall, where now I have to wait a hour for officers to open my cell so my food is cold when I get it, Superintendent in my opinion is coercing the mail room not to send out my mail because I have been trying to write you and the Governor and the mailroom has been holding the mail for 2 weeks, so I have to write you in some one elses name to assure you get the mail along with the governor.

Jamell Fox

### Action Requested

I request that an investigation be held about this matter and that officers get suspended and Captain and Dep Russo as well as superintendent, and I wish to press charges on the mail room, officers captain Dep and Lieutenant and if Superintendent gave the order for my mail to be held I want to press criminal charges on him as well, and I would like you to order this facility and any other facility to leave me alone about my mallowk hairstyle, it is not a risk to the order of a facility or safety and security and it is my culture and religious right under the constitution of the state of New York and the united states. (~~But my mallowk style~~)

carried to medical hospital in the facility, given steroids shot to walk, and hospitalized in infirmary for 3 days from the 23<sup>rd</sup> of December to the 26<sup>th</sup> of December and now I walk with a cane, because Eastern Correctional Cells at South Hall where I lock are not fit for keeping and After I got out of Hospital they put me right back in South Hall, where now I have to wait a hour for officers to open my cell so my food is cold when I get it. Superintendent in my opinion is coercing the mailroom not to send out my mail because I have been trying to write you and the Governor and the Mailroom has been holding the mail for 2 weeks, so I have to write you in someone else's name to assure you get the mail along with the Governor.

James J. 34

### Action Request

I request that an investigation be held about this matter and that officers get suspended and Captain and Dep Russo as well as Superintendent, and I wish to press charges on the mail room, officers Captain Dep and Lieutenant and if Superintendent gave the order for my mail to be held I want to press criminal charges on him as well, and I would you to order this facility and any other facility to leave me alone about my mohawk hairstyle, it is not a risk to the order of a facility of safety and security and it is my culture and religious right under the constitution of the state of New York and the United States. (let my mohawk fly)

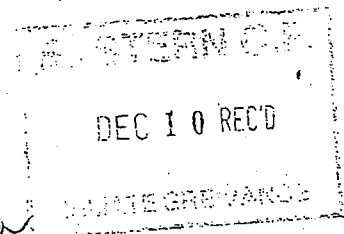


is instructing the mailroom to hold my mail pertaining to the real issues, so the mailroom is holding my mail and not sending it to commissioner, the governor and prisoners legal service. I also wrote a grievance on the superintendant and sent it to the commissioner of corrections so your office could refer to that as well, the superintendant is falsifying documents, my grooming standards (current hair-style) was never reviewed by a imam, what kind of people is working for DOCS, this is sick, as you could see this whole packet, 40 pages that has to be reviewed and the superintendant fails to investigate in order to cover up for the captain, D.S. Lt, Sgt and officers, this is clear gang activity, How could I meet grooming standards on both misbehavior reports, I was found not guilty and in compliance, now because I'm filing grievances for harassment DSS, and captain states I'm not in compliance I have to cut my hair, that's there order, but they are not man enough to put that on paper because they know they have no authority to tell me to do so in there official capacity, so verbally they tell me to cut my hair, exceeding the scope of there duty acting then in there personal capacity with intentions to harm me, and inflict cruel and unusual punishment on me,

Jaquell Jyp  
12-29-14



## EASTERN CORRECTIONAL FACILITY

IGRC OFFICE ACKNOWLEDGEMENT RECEIPTTO: Fox DIN: 12B1626 CELL: 12-18This notice is to inform you that your grievance(s) dated 12/8  
was/were filed on \_\_\_\_\_Log # ECF- 26147-14CODE: 4.9TITLE: Alleges Harassment/Retaliation

*Your log number, DIN, and cell location must be included on any inquiries made concerning your grievance.*

Upon completion of an investigation and if not resolved you will be scheduled for an IGRC hearing within 16 calendar days of the filing date. According to Directive #4040 if you do not appear for the hearing without a legitimate reason, the IGRC can hold a hearing in absentia. If 3 scheduled hearings are missed due to legitimate reasons the IGRC can hold the hearing in absentia. When a grievant is kept locked over thirty (30) days a hearing can be held in absentia.

If your grievance is numbered as part of a consolidate issue, you may or may not be called for a hearing. However, you will receive a copy of the grievance committee's decision, and you may appeal any decision in accordance with Directive #4040.

Grievances coded 25.1, 25.2 or 49 are passed directly through to the Superintendent for action. An investigation will be conducted and the Superintendent should respond within 25 days of the filing date. No IGRC hearing will be held.

If a response is considered untimely then the IGRC Office may contact you to ask for an extension or you can request in writing that it be appealed to the next level.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IGRC Clerk AM IGP Supervisor \_\_\_\_\_ IGRC Sergeant \_\_\_\_\_

JAVELI FOX 1251626 SOUTH 10 7

December 26, 2014

## EASTERN CORRECTIONAL FACILITY

To whom it may concern

On November 9, 2014 I was given a misbehavior report (Ex A) about my hair officer lied saying my locks were braided, I was found not guilty, by Lt Simmons, Hearing officer, on ~~November 12~~ November 12, 2014.

On December 7, 2014 I was searched by officer Williamson and Officer Wauqh, Officer Cruz Abandoned his post to point me out to these officers. A week prior officer Cruz told Lt Madison that when he see me I'm gonna give me another misbehavior report for the same thing (my hair), in which I was found to be in compliance. <sup>(Ex B)</sup> Officers never got approval from there supervisor to frisk me and then officer Williamson came to my cell and frisked my cell still without approval from a supervisor, just so he could find something to add on the ticket to make sure I was given keeplock time and suffered. he found 4 pair of state greens that was cut a quarter inch in the waist, I am now serving 30 days for those cut pants and had to pay 44.82 for used pants that were already in that condition when I got them from my last facility and these pants would've cost 2.00 the most to repair. I wrote a grievance on the Lt and officers, <sup>(Ex C)</sup> Captain webbe came to speak with me, immediately he covered up official misconduct, I wrote a grievance on the Captain for this clear assistance in failing to punish or speak to officers for abandoning post and also covering up for them, <sup>(Ex D)</sup> the Dep came to speak to me he covering for the captain and fails to investigate officer misconduct, I wrote a grievance on the Dep, <sup>(Ex E)</sup> I appealed the Tier II proceeding as excessive penalty and no proof to prove I cut the pants, the Dep Affirmed the penalty of 30 days, the same Dep I grieved. <sup>(Ex F)</sup> I been trying to write to the Commissioner and governor, however the mailroom is not sending out my mail and is holding it so I cant access the proper channels, for remedy. <sup>(Ex G)</sup> the keeplock status here is cruel and unusual, I had to climb on a chair and up the

Bars to get my breakfast, lunch and dinner trays, on December 23, 2017 slipped off the bar in the chair fell back and had to be carried to the hospital and given steroid shot to walk and then I was hospitalized in the prison infirmary until December 26, 2017, and I now temporarily (temporarily) walk with a cane, because I don't walk to good without it as of now. I am writing a grievance on the superintendent <sup>(EX 1)</sup> I also asked officers all the time to open my cell and hand me my tray, they tell me to climb or don't eat <sup>(EX 1)</sup> the superintendent allows this jail to run out of control, the superintendent could of prevented this, plus I should of never been on keep-lock for my HAIR and pants that's ripped that is not a safety and security issue, my hair is in a Mohawk hairstyle I am Native American through my fathers mother and I am Rastafarian, my hair is not all the way locked so its twisted as that's the only way to get modern locks, and they go back into a mohawk, I've been harassed and keep lock for my hair since I been in this facility, now I'm being charged 44.82\$ and 30 days keep lock, loss phone, loss of package and loss of rec, because of my hair and I had to climb to get food like a animal and now I'm cripple, because I fell, I should not have to be abused and placed under such treatment, please contact this facility as the powers that be and stop them from abusing me, I enclosed a witness statement on my bench. exhibit C. exhibit B will show the continued harassment

cc Governor  
cc Commissioner  
cc Good Morning America  
cc Daily News  
cc Prison Legal Services  
cc Prison Voices Project

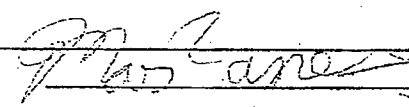
I wish to file criminal charges in this matter, please assist me in doing so.

Form 2171A (1/12)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

## EASTERN CORRECTIONAL FACILITY

## Inmate Misbehavior Report ~ Informe De Mal Comportamiento Del Recluso

1. Name of Inmate (Last, First) ~ Nombre Del Recluso (apellido, nombre)		No. ~ Num	Housing Location ~ Celda
FOX, JAVELL		12B1626	SH-12-8
2. Location of Incident ~ Lugar Del Incidente		Incident Date ~ Fecha	Incident Time ~ Hora
YARD GATE		11/9/2014	APPROX 10:30AM
3. Rule Violation(s) * Violaciones			
106.10 DIRECT ORDER			
4. Description of Incident ~ Descripcion Del Incidente			
<p>On 11/6/14 I, Officer J. Szkred, observed Inmate Fox 12B1626 with the sides of his head shaved and 1 large braid down the center of his head. I counseled Inmate Fox and ordered him to fix his hair to be in compliance with directive 4914 Inmate Grooming Standards. On 11/9/14 I observed Inmate Fox with the same hair style and when I questioned him about it he said "I'm not going to change my hair". Inmate Fox admitted that he is going to continue to defy the rules set forth in directive 4914. Area Sergeant Fassetta was notified and Inmate Fox was placed on keeplock status. It should be noted that Inmate Fox has been counseled for the same infraction by numerous security staff in the recent past, including Lt. E. Madison on 11/6/14.</p>			
Report Date ~ Fecha		Reported by ~ Nombre De La Persona Que Hace El Informe	Signature ~ Firma
11/9/2014		J. Szkred	C.O.
5. Endorsements of other employee witnesses (if any)		Signatures:	
Endosos De Otros Empleados Testigos (si hay)		Firmas	
2 _____		1 _____	
		3 _____	
Note: Fold back page 2 on dotted line before completing below			
6. Were other inmates involved? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, give name & #			
7. At the time of this incident, was inmate under prior confinement/restriction? <input type="checkbox"/> Yes <input type="checkbox"/> No or			
As a result of this incident, was inmate confined/restricted? <input type="checkbox"/> Yes <input type="checkbox"/> No			
8. Was Inmate moved to another housing unit? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, (a) current housing unit _____		(b) Authorized by _____	
9. Was physical force used? <input type="checkbox"/> Yes <input type="checkbox"/> No (if yes, file form 2104)			
Area Supervisor Endorsement 			
Dist: WHITE - Disciplinary Office CANARY - Inmate (After review)			

3 0615  
11/10/14  
DCP004STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES PAGE 1  
DISCIPLINARY HEARING DISPOSITION RENDERED (EX B)

EASTERN GEN

TAPE NUMBER 14-180

DIN: 12B1626 NAME: FOX, JAVELL

LOCATION: SH-12-018

INCIDENT DATE &amp; TIME: 11/09/14 10:30 AM TIER 2

REVIEW DATE: 11/10/14 BY: LT CAPUTO

DELIVERY DATE &amp; TIME: 11/10/14 09:15 AM BY: CO MAYR

HEARING START DATE &amp; TIME: 11/12/14 10:47 AM BY: LT SIMMONS

HEARING END DATE &amp; TIME: 11/12/14 11:03 AM BY: LT SIMMONS

CHARGE NUMBER	DESCRIPTION OF CHARGES	REPORTED BY	DISPOSITION
106.10	REFUSING DIRECT ORDER	CO SZKRED	NG

ANY GUILTY DISPOSITION WILL RESULT IN A MANDATORY DISCIPLINARY SURCHARGE IN THE AMOUNT OF FIVE(\$5.00) DOLLARS BEING ASSESSED AUTOMATICALLY AGAINST THE INMATE.

PENALTY CODE	DESCRIPTION	PENALTY MO DAYS	START DATE	RELEASE DATE	SUSPEND MO DAYS	DEFERRED MO DAYS	RESTITUTION \$\$\$\$ . ¢¢
-----------------	-------------	--------------------	---------------	-----------------	--------------------	---------------------	------------------------------

— DISMISSED —

11/10/14  
DCP004

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES PAGE 2 (EX)  
DISCIPLINARY HEARING DISPOSITION RENDERED

DIN: 12B1626 NAME: FOX, JAVELL

HEARING DATE: 11/12/14

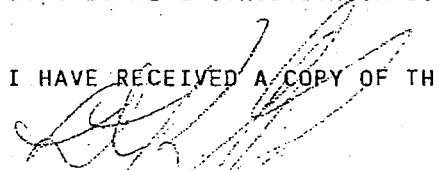
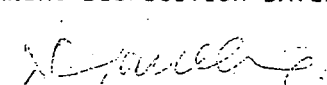
A. STATEMENT OF EVIDENCE RELIED UPON:

~~There is~~ INSUFFICIENT EVIDENCE TO  
SUPPORT THE CHARGE. HAIR CUT/STYLE IS  
PERMITTED IAW DIR 4914.

B. REASONS FOR DISPOSITION:

C. SPECIAL INSTRUCTION ON CORRESPONDENCE RESTRICTIONS AND REFERRALS

I HAVE RECEIVED A COPY OF THIS HEARING DISPOSITION DATED: 11/12/14

  11/12/14 11:03 PM  
HEARING OFFICER SIGNATURE INMATE SIGNATURE DATE & TIME RECEIVED

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING APPEAL PROCEDURES:

☒ FOR TIER II HEARINGS-APPEAL TO SUPERINTENDENT WITHIN 72 HOURS.

☐ FOR TIER III HEARINGS-APPEAL TO COMMISSIONER WITHIN 30 DAYS.

From: JAVELL FOX 12B1626 SH-12-18

Eastern NY Correctional Facility

(EXC)

P.O Box 338

Napanoch N.Y 12458

To: Superintendent

Date: 12-7-14

on 11-9-14 I was given a misbehavior report by officer skred for refusing a direct order. officer skred claimed that my hair was not in compliance with directive 4914 of inmate grooming standards. I have locks going, and the sides cut. at the hearing held on 11-12-14 Lt Simmons found me not guilty and per directive concluded that my haircut style was in compliance. on the ticket officer skred lied about how my hair was styled. when she saw me after the ticket was dismissed, she said she had to because Lt <sup>Madison</sup> ~~Madison~~ gave he a order. (very unprofessional).

Lt <sup>Madison</sup> ~~Madison~~ gave me a order prior to that ticket not to braid my locks or cornrow my locks, which I promptly followed.

on December 7, 2014 officer cruz directed officer Williamson to search me, where he took off my shoes and had me in my sox in the hallway. I was then sent back to my assigned cell after the search of my person. 10 minutes later officer Williamson Arrived at my assigned cell, ordered me out and began to search. he asked me if I knew why he was there. I stated no, he said that Lt <sup>Madison</sup> ~~Madison~~ gave me a order, and I told him I followed it, and had a hearing for that order, and again a officer is being sent by Lt <sup>Madison</sup> ~~Madison~~. I told officer Williamson that I had a hearing for that order and was found not guilty by hearing officer Lt. Simmons. officer Williamson stated that Lt Simmons doesn't know anything, and he don't know how things run around here. I also have witnesses that heard this statement. Lt Simmons is Black Lt <sup>Madison</sup> ~~Madison~~ is white, officer Williamson is white and Lt <sup>Madison</sup> ~~Madison~~ is being racist. Lt Simmons is competent enough to interpret Black hair, and a grooming directive that defines primarily Black hair. 051 request to be released from 0570



issue. It is no reason for me to be on keeplock status for my hair representing my culture and in compliance with Directive. I also Request not to be setup with Drugs or weapons or positive urine test or Assault by officers, I don't use Drugs, or sale Drugs, I don't make weapons or use weapons, I'm not violent. these are tactics officers use to punish inmates for using the Grievance system. its not far fetched, for my ticket being dismissed I been Harassed for a month by officers, now leaving in a misbehavior report for my hair again and possibly another ticket. officer cruz left his post just to Harass me. I request to be Assisted in filing criminal charges against officer cruz, officer williamson and Lt <sup>maoison</sup> ~~williamson~~. I fear for my safety at 6:15pm I was given a urine test, officers are going great lengths to punish me for no reason, just because of my hairstyle. officer williamson even stated that he was searching my person and assigned cell because of my hair. Lt and officers are exceeding the scope of there duty to the point of gang activity. officers and Lt are also violating my right to religion by constantly forcing to remove my religious head wear just to see my hair like I'm a freak show. I'm being Degraded and cruel and unusually punished. facility Grievance have been filed in this matter and a Notice of Intent is being Prepared.

CC I.G

CC Commissioner

CC Attorney General

CC Governor

Amell Ly

also on November 30, 2014 a inmate overheard edo cruz tell Lt wilson that if he see me he gonna give me a ticket, this was conspired and is a criminal act, and should notice to the <sup>0619</sup> ~~0619~~ I am indigent, I owe Advances for legal copy's and I have a pending surcharge therefore the facility takes 100% of my idle pay. I request An Advance from the facility to get Hygiene Products, a drinking mug (because you ordered the C.O's to Confiscate all water bottles, so now I cant get water to drink, and stamps so I could write my Relatives <sup>032</sup> ~~032~~ the structure



(E20)

I Bennett Esquivel #98 A4911 was sitting in my cell on December 7, 2014, when I over heard the conversation between the inmate in 12-18 and the officer who was frisking his cell. The officer gave a direct order to the inmate in 12-18, to step out of his cell and place his hands above his head, so that he could get frisk, the inmate complied with the order the officer then gave the inmate another order to stand and face his cell while he conduct a cell search of his cell. The inmate complied with that order as the officer then ask the inmate did he know why his cell was being search, the inmate replied that he didn't know why. The officer then stated, that the reason why the inmate cell was being search, is because he was given a direct order to cut his hair by the Lieutenant and that he was not in compliance with the direct #4914 of hair styles, The inmate then replied to the officer "that he was in fact in compliance with the direct #4914, and that he receive a misbehavior report for the same hair style before, and that the Lieutenant who did his hearing dismiss all charges against him being in compliance with the direct #4914. The officer then ask the inmate "did he have the disposition of the hearing, the inmate replied "yes". The officer then stated that the hearing Lieutenant did not know what he was talking about and that the Lieutenant was wrong in his decision and that the other Lieutenant was right about his hair style not being in compliance with the direct #4914, and that he will be keeplocked again for having that hair style.

Date 12/8/14

033

B. Esquivel  
98 A4911

0572

FROM: Juvell Fox, 1261626 SOUTH 1112 18  
 TO: Superintendent  
 Date: 12-14-14

(Ex D)

On 12-12-14 a captain came to speak with me. he already was predetermined to rule that my hair was no in compliance, a conclude this because he had all subdivision under dir 4914 highlighted that he used to tell me my Hair was not in compliance. Captain told me that I could not twist my hair. I explained to him that all new growth must be twisted or hair that isn't locked must continue to be twisted in order to lock. Captain misquoted "Directive 4914. Directive states ~~an inmate with~~ Dreadlocks may not be twisted, weaved, or controlled "together" Captain interpreted this to mean that Dreadlocks may not be twisted, and anyone seeking to have Dreadlocks cannot because an inmate cannot twist their hair. I explained to Captain that the Directive meant Two or more Dreadlocks cannot be twisted together, I understand why for safety and security hair can be used to smuggle contraband, if Dreadlocks are twisted, weaved or controlled "together" Dreadlocks and together is the words. Captain's misinterpretation is an infringement on my federal and state right to religion.

Also the Directives states that you cant have two hairstyles, meaning cornrows and Dreadlocks, which would not make sense. However my hair being cut on the sides do not constitute a hairstyle, it constitutes a hair cut with my locks on top and in the back which pays reverence to my Native American Heritage that I acknowledge through my fathers, mother who passed away

(Ex 9)

my haircut on the sides and my locks on the top and back constitutes a hairstyle, a hairstyle that is popular amongst minorities and whites of the Punk Rock culture.

Captain is clearly misinterpreting the Directive and told me furthermore that I have to cut my hair all together. He also said that when I go to my hearing I can not have any hair on top because are not fully dreadlocked and some parts that is not locked is twist. And if I don't comply at the time of my hearing I will be found guilty. So basically my hearing is predetermined and shows proof of bias by influence from the investigation officer over the hearing officer which will prevent the hearing officer from being impartial which is a violation of my due process. Under state and federal constitution. Francis V. Loughlin 891 F.2d 43, 46 (2d Cir 1989) this is also cruel and unusual.

Furthermore I complained about the officer by the name of Cruz leaving or abandoning his post and conspiring with officers who on 12-7-14 stopped me in the hallway took off my boots and frisked me for no reason pertaining to me being a threat to safety and security frisked my cell just to find anything to add charges to the misbehavior report. This kind of behavior does not concern the captain. I'm being frisked and confined because of a hairstyle that poses no threat to safety and security. Superintendent you are my caretaker commissioned by the state. I ask you to please allow me to exercise my religion and culture in part by the hairstyle. neatly groomed.

I am registered in eastern you facility as (E.D. N.O.I), however this was done because I wanted to be a part of savours day which is a N.O.I Holiday, we get 3 times to visit a religious function as a guest then we cant go no more. I could just be a guest because I would of needed to be a guest for 5 weeks instead per directive its 3 weeks and the event was 5 weeks away I could sign up last minute (in the 3 week term) because I would not have made the call out, however ASIFA is my Religion as well as the science prescribed by the Natives and Ancient Africans.

Please Assist me in being relieved from violation of my Due process and confinement for expressing my culture and religion, I was found not guilty in a hearing for my hear and Direct order by the same hearing officer who Adjourned my hearing that was held on 12/11/14 for no reason other than he knew I was gonna meet with the captain on Friday 12/12/14, so that the captain could predetermine the outcome of my hearing and also the captain is taking the side of security staff Lt Madison and officers mention in my previous letter to you the captain is ~~ethnically~~ biased.

cc Governor Andrew Cuomo  
cc Commissioner

(EXD)



STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
(845) 647-7400

WILLIAM A. LEE  
SUPERINTENDENT

# 12B1626 Fox, J.  
SH-12-18

12 December 2014

I am in receipt of your letter of complaint dated 07 December 2014. I have requested and received memos from all identified Staff.

I met with you on 12 December 2014, the interview took place in the computer room, located on the Guard room floor. During the interview the following items were discussed.

- 1) Directive # 4914 Grooming standards.
- 2) CORC decision, concerning "corn rows and ponytails".
- 3) The misbehavior report, dated, 09 November 2014.
- 4) Identified "Lt. Wilson" to be in fact Lt. Madison.
- 5) When you received direction from Lt. Madison and when you complied with same.
- 6) What exactly your current hair style is and what you determine it is called.
- 7) The interpretation of the wording "twisted" in directive # 4914.
- 8) Why and what exactly you meant by the statement, "I fear for my safety".

During the interview, you removed your head covering to display your current hair style, at which time I advised you that you were not in compliance with Directive # 4914. I showed you the directive and pointed out to you where the violations were. You stated to me several things. First, that the hair style you have is a dreadlock style. I indicated and showed you Directive # 4914, page 3 of 4, heading 2, sub-heading (a). "The dreadlock hairstyle is allowed. When worn, dreadlocks must extend naturally from the scalp and may not be woven, twisted, or braided together forming pockets that can not be effectively searched".

We also discussed the 08 allowable basic haircuts. You stated to me that, you had a "basic hair cut". I advised you that per directive # 4914, page 3 of 4, heading 2, sub heading (b). "Inmates may wear only one approved hair style; no combination of approved hairstyles is allowed". Your combination of a "short" haircut on the sides and "dreadlocks" on the top, constitutes a "combination" of two approved hair styles and per Directive # 4914, is not allowed.

(EX D)

Pg. 2 of 2  
webbe/fox

We then discussed your concerns, based on the recent misbehavior report you received, as well as a cell frisk and urinalysis request. Your statement to me was, that the "single braid" hair style, you had on 06 November 2014, as observed by Lt. Madison and Officer Szkred, was not the same as what you had on 09 November 2014, nor was it the same style on 12 November 2014, the day of your disciplinary hearing. When asked if the hair style you had on the 9<sup>th</sup> of November, was the same as you had on this date, 12 December, you stated "yes". I then advised you that your current hair style was not in compliance, based on Directive # 4914.

We next discussed the pat frisk, as performed by Officer Williamson on 07 December 2014. Officer Williamson submitted a memo and advises, that on that date he pat frisked you and during said frisk, a small slit was discovered in the waist band of your pants, next to the snap. Officer Williamson continued the pat frisk and reported his findings to the Area Sergeant, who authorized Officer's Williamson and Waugh to perform a cell frisk. During the cell frisk the following items of contraband were recovered.

- 1) 4 – State green pants, w/ slits cut in the waistband, forming a pocket.

The items of contraband were confiscated and secured and a misbehavior report generated. You were keep locked for this infraction and as of this writing, remain keep locked pending a disciplinary hearing. Based on this information, a urinalysis request was submitted.

We spoke about your concerns for your safety and I asked you to elaborate, you stated to me that your "freedom" was in jeopardy. You further stated that because of all these recent events, you felt these incidents were escalating.

We also spoke about your religious denomination, which at the time of this writing is Nation of Islam and not Rastafarian, which you now claim to be.

I have read the memos supplied by Staff and I have looked at the documents involved, ie: misbehavior reports, frisk log/cell search log and I find no inconsistencies with good security practices. I do not find any Employee misconduct and I find no basis for your statement that you, "fear for your safety".

I do find, that while the original misbehavior report was dismissed, per Directive # 4914, your hair is still not in compliance, as stated in a recent misbehavior report dated 07 December 2014 and my interview and observation of you on today's date. While you were not charged with this infraction, the fact remains, you must get into compliance with Directive # 4914, or a misbehavior report will be issued.

As for your other allegations, I find them without merit. I advise you to come into compliance with the Directive and display a more positive attitude towards having contraband items in your possession.



JAVELL FOX 12B16Z6 S4 12-18  
12-14-14

(520)

Grievance No

### EASTERN CORRECTIONAL FACILITY

on 12-12-14 I was called out to speak to the security captain pertaining to a complaint that wrote about Lt Madison, C.O. Cruz and C.O. Williamson, and Grievance that I filed for retaliation and Harassment stemming from a ticket (Misbehavior report) that I received from officer Szekred = For Disobeying a Direct order from Lt Madison. this ticket was given to me on 11-9-14 and a hearing was held on 11-12-14 and the Hearing officer Lt Simmons found me not guilty and stated that my Haircut / Hairstyle was Allowed per Directive 4914 and Law.

on 12-7-14 I received a misbehavior report for the same issue. on 12-12-14 Captain stated to me that my hair was not in compliance and he clearly misinterprets the Directive that states 'Dreadlocks' can not be woven, Twisted or ~~corn~~ corn rolled together.

The Captain said that my locks are twisted therefore my hair is not in compliance. also my hair is cut on the side and said that that is

Two different hairstyles and is in further non-compliance. In the Directive Hairstyles states Cornrow Braids and Dreadlocks, so I could understand if I had corn row braids on the side and locks on the top this would be a violation by my hair being cut on the sides and lock on the top neatly groomed is one hair style.

My Religion is Rastafarian and I adhere to the strict custom of my Native Cherokee Ancestry and my Hairstyle is a cultural symbol, that represents the bear turning into the Hawk, which means from land to sky, spiritual rebirth. Captain also stated that if I don't cut my hair by the time I go to my hearing I'm gonna be found guilty. so my hearing is now predetermined which is a violation of my constitutional right to due process by him being the investigation captain influencing the hearing officers decision and ability and obligation to be impartial *Francis v Loughlin* 891 F.2d 43,46 (2d Cir 1989) and he is also infringing on my Right to Religion under Section 60(1) of the New York corrections law. my Hairstyle is a spiritual religious symbol and is no threat to the order, safety or security of the Prison.

Furthermore I made captain aware verbally which he was already aware orally that I had been frisked physically by officers because of my Hairstyle, officer Cruz abandoned his post to direct officers and show them who



I WAS and S + Okeyed officer to further to frisk my cell for no reason concerning safety or security only to execute a cell to find item that I cant have or any little thing to add more charges to the misbehavior report to assure that I confined to my cell after the hearing.

Captain was not concerned with this AND justified the Sgt and officers malicious conduct, he had predetermined to state that my hair was not in compliance by highlighting the same subdivisions that the officer quoted which is idiotic and violates my civil and constitutional rights the captain is bias, and by him influencing the hearing officer HE is breaking correction rules. I also told the capt that when I came back from the hearing officer and his co-worker was teasing me and telling me to say something now and making chicken quacks like they were highschool teenage bullies, capt didn't care.

Action requested

I request to be allowed to wear my hairstyle, it is a religious symbol of strength, peace and growth, and for the captain to be explained the importance of protecting prisoners constitutional rights and by him supporting or agreeing with officers abandoning their post, to point out a inmate, frisk him, then the Sgt okay's a cell search all because of a inmates hairstyle that poses no threat to safety and security is a contradiction of his rank.

JAVELL FOX 12 1626 54-12-18 (12/ 114 ) (EXD)

GRIEVANCE No.

## EASTERN CORRECTIONAL FACILITY

I received the outcome of captain's investigation (of grievances that I filed and complaints I wrote) in writing.

I am awestruck to see how incompetent the captain is acting and how much he lacks integrity, the super intendant was a liar for a captain and as a security captain he can not be trusted.

Captain states officer williamson gave a memo explaining ~~that~~ <sup>that</sup> he pat frisked me and at that time he felt a slit on the inside the waistband forming pockets then he frisked my assign cell. However what was the reason he frisked me captain failed to state that, he also failed to investigate officer Cruz for abandoning his post just to point me out to officer williamson and officer ~~waugh~~ <sup>waugh</sup>, also officer ~~waugh~~ <sup>waugh</sup> was not there when officer williamson came to frisk my assigned cell as captain stated he was sent by sgt, he never came because no sgt sent williamson I told him my cell location and he came on his own alone, and I have a witness that heard william say why he came (because of my HAT style) and heard officer williamson when he said to me to see a pattern in my pants they all have slits in them, then he left out of the cell, told me to get on the gate and he then felt my band to see if the pants I had ~~on~~ <sup>on</sup> had slits in them which they did.

He states that he finds no employee misconduct, if this was a test for him to ~~set~~ <sup>set</sup> ~~hired~~ <sup>hired</sup>, to find employee

misconduct and if he did not he would of never gotten hired, so since he was sent to do an investigation and found no employee misconduct he should be suspended for one officer Cruz abandoning his post to point me out to get me searched if definitely employee misconduct, and for captain to not even mention shows hes trying to cover for the employees misconduct, which makes him an accomplice to officers and lieutenant criminal action. 2 Captain never spoke about why I was pat frisked and who okayed that, why because no one okayed it and this is further him trying to cover up for employees misconduct, and then making up an elaborate story for why ~~they~~<sup>he</sup> came "because of my pants having slits in them) to search me, but I have a witness that can attest to him stating clearly why he came to frisk my assigned cell (because of my hairstyle etc.) no sgt give permission ~~the~~ he may have backlogged it with sgt's permission, I'm sure of that the captain covers up for security staff, lieutenants and sgt's do the same officers police themselves and act as tyrants when ever they choose, and it captains like the Captain that the superintendant sent to investigate that'll cover up employee misconduct, Hes a criminal, Bias prejudice.

Actions requested

captain needs to be suspended. I request  
An employee rule book.

JAVELL FOX 12B1626 SH-12-18

Dec - 18 - 2014

TO: Superintendent

(EX E)

Today I spoke with Dep Russo, I was spoken to like a degenerate embassil, I come to that conclusion by the tone of his expression of words. He told me to take that off let me see, you hiding it, take that off, he's referring to my religious head wear, no respect at all.

furthermore he already predetermined his ruling on what he thought my Hair should be, of course, not in compliance.

he spoke about the captains decision on my Hair and agreed, of course, he spoke nothing about the captains failure to investigate and possibly covering for officers misconduct.

The official staff here Egoistical, they have no interest in me and do not see me as a human being just a person, officials here from what I've been through only see each other as human and is only out to protect each others interest, no matter how much harm they cause me.

superintendent is a samurai was to be housed in your prison, and he had all his hair shaved off on the side part of the top and the back and one ponytail with a braid representing his religious

Culture, would you keep sending officials to (see  
 inspect his hair or would you make a decision  
 or direct those of whom you send to make  
 a decision based on Correction Law section  
 60(1) Right to Religion 1st Amendment, its  
 common sense that the directive cant list  
 every ~~hairstyle~~ / Haircut that entitles a  
 Hairstyle. the Directive Donot say my Hairstyle  
 is not permitted and NY Cor Law 60(1) allows  
 me to express my religion AS long as I'm not  
 disrupting the order of the facility or threatening  
 safety and security, I'm a true descendant of  
 the Cheanne Natives and I acknowledge Haile  
 Selassie I the last king of Ethiopia as the true  
 and living God which holds the wisdom of the PATH  
 flat man should follow, my Hairstyle is Holy  
 religious I request that you allow me to ~~express~~  
 express my religion, thats a Constitutional  
 Right. Dep Russo stated that if I don't  
 cut my hair or grow my hair for cause he  
 did not say flat me twisting my locks was  
 Against Directive like the captain DO I'm gonna  
 remain confined, who is he to disregard correction  
 Law 60(1) or do he know it and if he don't rief's  
 not trained properly. However He should know the  
 Constitution and Dep Russo is clearly violating my  
 Constitutional Right. Action requested! to be Allowed to  
 Express my beliefs and reflect the consciousness that  
 I have under the U.S Const N.Y State

JAVELL FOX 12BI 26 SM 12-18 12-16-14

(EKE)

Sincerely,

Eastern Correctional Facility

On 12/14/14 I received a memorandum from Dep Russo pertaining to our meeting on 12-16-14.

Dep Russo is falsifying documents intentionally. Dep Russo on above date at the lobby or South hall he conspired with a female officer and concocted the lie at that time that states my hair was ~~only~~ in a braided style that forms pockets. As the Dep of Security he's competent at crafting memos for his higher official that use the rules to punish me at the expense of him falsifying documents, because a picture was taken of my hair the same day we spoke, that will prove Dep Russo is a liar, criminal and has no integrity.

Action Requested.

I want to file criminal charges in this matter, equal protection of the law. If I break a rule or the law I'm immediately punished, these officials such as Dep Russo need to be criminally investigated and punished after the fact findings to deter future behaviors like falsifying documents to lie for peers and cover up and sweep under the rug official misconduct on a inmate. This is

FORM 2178 (12/11)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

**APPEAL FORM TO THE SUPERINTENDENT  
VIOLATION (TIER I) AND DISCIPLINARY HEARINGS (TIER II)\***

EASTERN DISTRICT  
SUPERINTENDENT'S OFFICE

(EX F)

Name: JAVELL FOX 2014 DEC 18 AM 8 35 DIN: 1251626  
Housing Location: South Hall 1278 eastern Correctional Facility

I wish to appeal my ☐ Tier I ☒ Tier II hearing completed on 12/17/14

**STATE SPECIFIC GROUNDS FOR APPEAL:** Excess penalty, cruel and un-

usual punishment, no evidence to impose penalty.  
on 12-17-14 I was given 30 days keeplock, loss of rec, loss of commissary, loss of packages, and loss of phones. for excess/ altered clothes 113.20. for one I did not get the pants that were in my possession that had a cut that was not even a quarter inch, in the waist band and I was also charged \$44.32 for the 4 pants. since I did not receive the pants from this facility, hearing officer can not prove that I altered/damaged them, also 30 days of keeplock and loss of all privileges plus \$44.32 restitution for damaged used pants that hearing officer did not prove I damaged is cruel and unusual punishment. I request that the penalty of 30 days keeplock and loss of privileges as be reversed and the restitution of \$44.32 be deposed. also I stated on the record that I received those pants the way they were used, from Auburn State Shop, and this disposition is cruel and unusual punishment.

\*NOTE: Tier I appeals must be submitted within 24 hours of hearing.  
Tier II appeals must be submitted within 72 hours of hearing.

\*\*\*\*\*

**SUPERINTENDENT'S REPLY**

Your appeal of the Tier II Hearing conducted on 12/17/14 has been reviewed by me. The decision of the hearing officer is hereby:

☒ Affirmed

☐ Reversed

☐ Modified

DSS  
(Superintendent or Designee)

12/23/14  
(Date)



STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
EASTERN NY CORRECTIONAL FACILITY

TO: Fox, Javell 12B1626  
FROM: Diane Labbate, Steward  
SUBJ: Legal Postage Advances  
DATE: 12/23/14

*DL*

(EX 6)

As per Directive 2788, justification is required to approve the attached postage advance forms. Your requested advance and balance of unpaid previous advances for legal mail exceed \$20.00. Exceeding the \$20 limit shall only be approved if you can show by court rules, a statute of limitations, or other legal deadline applicable to your individual circumstance that the legal mail must be sent prior to receipt of the next week's free postage allowance. Until your legal mail advances fall below \$20, please continue to provide this documentation for all future requests in order to expedite the approval process.

CC: file

EASTERN NEW YORK CORRECTIONAL FACILITY  
CORRESPONDENCE UNIT

Name: Felix Jewell Din: 12B1626 Loc: 12-15  
 Date: 12/23/14 (E x G)

This piece of mail is being returned to you in accordance with Directives #4421 and #4422.

- \* Inmate to inmate mail, business mail, and Free Matter for the Blind mail must be submitted unsealed.
- \* All mail to other inmates must be approved in advance by your Counselor.
- \* Your name, din, and Eastern New York Correctional Facility must appear on the front and back of your envelope.
- \* You are allowed to mail 5 Free Legal Letters or a total allotment of \$2.40 per week. Any legal mail submitted after you have used your weekly allotment will be returned to you for stamps or a disbursement form. During this week, you used a total of \_\_\_\_\_ in free legal postage.
- \* Name or address on this legal mail is not listed in the New York Lawyers Diary and Manual, please send verification that this is in fact a legal address.
- \* When using an Advance Authorization Form #2078, an original Disbursement Form #2706 must also be attached.
- \* Disbursement Form or Advance Form is not allowed to be used for 49 cents postage – use a stamp.

You need to add \_\_\_\_\_ postage or a disbursement form.

- \* Your GED/ High School Diploma/ Transcript has arrived and has been forwarded to the Academic Office.
- \* Your study correspondence program information from \_\_\_\_\_ has arrived and has been forwarded to the Academic Office for review.
- \* The following has arrived at this facility for you and has been sent to the Inmate Records office for placement in your personal property:
 

<input type="radio"/> Social Security Card	<input type="radio"/> Certificate
<input type="radio"/> Driver's License	<input type="radio"/> Birth Certificate
<input type="radio"/> Marriage License	<input type="radio"/> Other
- \* This company is on our current Disapproved Vendor List (list can be viewed in the Library)

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Juvell Fox 12B1026 SH 12-18

December 25, 2014

(EX 6)

GRIEVANCE NO.

EASTERN CORRECTIONAL FACILITY

On December 24 I received a letter from Diane Labbate, steward dated December 23 2014, making me aware that she could not send out my legal mail with Advanced Disbursement because I'm over my allowed Advance which is 20.00\$ per Directive 2788 so she claims, However I sent off legal mail ~~on~~ ~~at~~ on December 17, and the 18, 1, to the Governor, 2 to Prison Legal Services, 3 to Commission of Corrections, 4, to Appellate Division Fourth Department, 5 to Peter J DiGiorgio Attorney At law, 6 District Attorney, and 4 miscellaneous mail to friends AND family to make them aware of the Abuse that been inflicted on me at this facility, and a week later she is informing me that it cant be mailed out, and on top of that my legal mail have not been returned to me yet (I'm furious) this is the second deadline that I've missed because of this lazy untrained inconsiderate mail room. I'm being denied access to the court, and I believe the mailroom is conspiring with officials to stop and stephete me from getting mail out reporting this facility

Juvell ZP  
Action requested

In the future there should be no reason A Indigent inmate should have to send out A Disbursement if there is no MONEY TO DISBURSE, THIS IS COMMON SENSE. An Advance Disbursement is the proper Disbursement for A Indigent, Advance, loan etc., and the mailroom not mail when they get it, and if there not

050

TO: Diane Labbate, steward

From: Javell Fox, 1281626, SH 12-18

Date: 12-25-14

(EX 6)

I received your letter dated 12-23-14, I sent you majority of the Advance forms and mail last week, around the 17<sup>th</sup> and 18. First off, by you just holding my mail you are slowing up my access to the court, legal support and to statesmen, 2<sup>nd</sup> of all if you weren't gonna mail out my mail why are you holding it? and why are you waiting so long to inform me? send me my mail, you should get this letter from me on 12-26-14 which is Friday at 10:00am on or around, when you put the mail together to send to the population please add my mail with it. this is the second deadline I have missed because your office is not processing or returning my mail in a expeditious manner.

MAIL THAT NEED TO BE RETURNED TO ME TODAY 12-26-14 ARE AS FOLLOWS:

- 1 Appellate Division Fourth Department Rochester N.Y
  - 2 Peter J DiGiorgio, Utica New York
  - 3 Oneida County District Attorney, Utica N.Y
  - 4 Prison Legal Services, Albany New York - (manilla envelope)
  - 5 Governor Andrew Cuomo N.Y N.Y - (manilla envelope)
  - 6 Commissioner of Corrections, Albany N.Y (manilla envelope)
  - 7 Tene Garcia, Middletown N.Y
  - 8 Javell Fox Jr (Ico Sylvia Smith) Rome N.Y
  - 9 Talibra Harrison, Bronx N.Y
  - 10 Bradi Miyummi, Monticello N.Y
- I Have returned to South Hall (12-18) so please send my mail there

CC File

STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
(845) 647-7400

(EXH)

TO: Housing Unit Officer

FROM: Medical Health Unit: \_\_\_\_\_ (RN/MD/DDS)

SUBJECT: MEDICAL LIMITATIONS

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

NAME: \_\_\_\_\_ DIN: \_\_\_\_\_

- ☐ Inmate should remain in his cell:
- ☐ Shower on block per block routine.
- ☐ No strenuous exercise or competitive physical sports.
- ☐ Move to Flats/First Tier.
- ☐ No lifting more than \_\_\_\_\_ lbs.
- ☐ No work.
- ☐ May return to work and full program.
- ☐ Bottom bunk only. ☐ No double bunking.
- ☐ Permit for medical appliance: \_\_\_\_\_

TO RETURN APPLIANCE BY: \_\_\_\_/\_\_\_\_/\_\_\_\_

☐ Others: \_\_\_\_\_

Duration: Date From: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Inmate

Note: This pass shall be rescinded if inmate is found to participate in activities or sports not consistent with the pass. All passes expire on stop date. Renewal of pass shall be granted solely on the basis of medical condition.

I have verbally demonstrated understanding of the above to health care provider listed above.

Distribution: White - Medical Record  
Green - Program Assignment  
Pink - Housing Unit Officer  
Yellow - Yard Sergeant  
Goldenrod - Inmate

JAVELL FOX 12B1626 December 26, 2011 South Hall 16-4

Superintendents  
GRIEVANCE (EXT)

# EASTERN CORRECTIONAL FACILITY

Superintendent failed to investigate Dep of security and Security Captain for failure to investigate official misconduct, Superintendent allowed Officer Cruz to Abandon his post, he allowed Officer Williamson and Officer Wough to frisk me without approval from there supervisor he also allowed these same set of officers or rather Officer Williamson to frisk my cell without permission from his supervisor, all because of my HAIR. Lt Madison and Officer Cruz conspired this whole ordeal a week prior to it occurrence I have a witness that attest to this. Superintendent allowed me to get an affirmed decision by DSS RUSSO who I wrote a grievance on and out of retaliation he affirmed my penalty of 30 days keeplock, 30 days loss of rec, 30 days loss of phones, and 30 days loss of package. Superintendent is allowing officers and higher officials to pressure me into cutting my Mohawk, with locks in it which is properly groomed and a symbol of my Native American Heritage, and Rastafarian belief protected under the Constitution and NYCORR law 610, Superintendent is also allowing for me to be held Double Jeopardy, on Lt name Simmons found my Dread Hawk/Bear Hawk to be in compliance and I got to misbehavior report for the same thing. Superintendent also is not assuring that the facility is safe, while I'm on keeplock I had to climb a chair in bars to get my breakfast lunch and dinner,

(Ex 6)

EASTERN NEW YORK CORRECTIONAL FACILITY  
PO BOX 338  
NAPANOCH, NEW YORK 12458

MEMORANDUM

TO: FOX, J 12B1626 12-18  
FROM: E. Jennings, Inmate Records Coordinator I  
DATE: December 26, 2014  
RE: Legal Mail

Attached you will find 3 letters which have disbursements and advances attached. Please be advised that these letters do NOT fit the criteria of Legal Mail. Therefore, you need to supply stamps.

3 letters were returned however all of my legal mail is still being held pertaining to the violations of this facility and its officials, this is not right.

/emj

cc: file



carried to medical hospital in the facility, given steroid shot to walk, and hospitalized in infirmary for 3 days from the 23<sup>rd</sup> of December to the 26<sup>th</sup> of December and now I walk with a cane, because Eastern Correctional cells at South Hall where I lock are not fit for keeping and After I got out of Hospital they put me right back in South hall, where now I have to wait a hour for officers to open my cell so my food is cold when I get it. Superintendant in my opinion is coercing the mail room not to send out my mail because I have been trying to write you and the Governor and the Mailroom has been holding the mail for 2 weeks, so I have to write you in someone elses name to assure you get the mail along with the governor.

James 34

### Action Request

I request that an investigation be held about this matter and that officers get suspended and Captain and Dep Russo as well as superintendant, and I wish to press charges on the mail room, officers captain Dep and lieutenant and if superintendant gave the order for my mail to be held I want to press criminal charges on him as well, and I would you to order this facility and any other facility to leave me alone about my mohawk hairstyle, it is not a risk to the order of a facility of safety and security and it is my culture and religious right under the constitution of the state of New York and the United States. (let my mohawk fly)

FORM 2171B (1/12)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

Side 2

Correctional Facility

## INMATE MISBEHAVIOR REPORT • INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

1. NAME OF INMATE (Last, First) • NOMBRE DEL RECLUSO (Apellido, Nombre)	NO. • NÚM.	HOUSING LOCATION • CELDA
FOX J.	12B1626	7 H. 12-13
2. LOCATION OF INCIDENT • LUGAR DEL INCIDENTE	INCIDENT DATE • FECHA	INCIDENT TIME • HORA
OUTSIDE MESS HALL #1 / CELL 12-13	12-7-14	approx. 11 <sup>25</sup> AM
3. RULE VIOLATION(S) • VIOLACIONES		
106.10 - DIRECT ORDER		
113.20 - ALTER STATE CLOTHING		
116.10 - DESTROY OR DAMAGE STATE PROPERTY		
4. DESCRIPTION OF INCIDENT • DESCRIPCIÓN DEL INCIDENTE		
<p>ON THE ABOVE DATE AND APPROXIMATE TIME, C.O. WILLIAMSON AND MYSELF CONDUCTED A RANDOM PAT FRISK ON INMATE FOX 12B1626 OUTSIDE OF MESS HALL #1. UPON REMOVAL OF HIS HEAD COVERING IT WAS DISCOVERED HE HAD AN UNAUTHORIZED HAIR STYLE OF A COMB WITH DREAD LOCKS. THIS IS IN VIOLATION OF DIRECTIVE 4014 - INMATE GROOMING STANDARDS II-B-2-a. UPON FURTHER INVESTIGATION IT WAS DISCOVERED THIS INMATE HAD PREVIOUSLY BEEN ORDERED TO FIX HIS HAIR STYLE BY LT. MADISON. THIS ORDER HAS YET TO BE OBEYED. DURING A SUBSEQUENT CELL SEARCH OF FOX'S CELL, AUTHORIZED BY SGT COUNOR, INMATE WAS FOUND TO BE IN POSSESSION OF 4 PAIRS OF STATE PANTS THAT HE HAD ALTERED BY PUTTING A SLIT IN THE WAIST BAND, CREATING A POCKET. PANTS WERE CONFISCATED AND BROUGHT TO WEST WING COURT. VALUE OF PANTS IS \$11.08 PER PAIR. AREA SUPERVISOR NOTIFIED. INMATE FOX PLACED IN KEEP LOCK STATUS.</p>		
REPORT DATE • FECHA	REPORTED BY • NOMBRE DE LA PERSONA QUE HACE EL INFORME	SIGNATURE • FIRMA
12-7-14	J. WAUGH	[Signature]
5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any)		TITLE • TÍTULO
ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		C.O.
SIGNATURES:		
FIRMAS: 1. [Signature] 2. [Signature] 3. [Signature]		

NOTE: Fold back Page 2 on dotted line before completing below.

DATE AND TIME SERVED UPON INMATE: 12/8/14 7<sup>54</sup> AM NAME AND TITLE OF SERVER: J. STODOLSKI  
 FECHA HORA DADO AL RECLUSO: NOMBRE Y TÍTULO DEL QUE ENTREGA:

You are hereby advised that no statement made by you in response to the charges or information derived therefrom may be used against you in a criminal proceeding. ♦ Por este medio se le informa que no se puede usar ninguna declaración hecha por usted como respuesta al cargo o la información derivada de el en una demanda criminal.

## NOTICE • AVISO

## REVIEWING OFFICER (DETACH BELOW FOR VIOLATION HEARING ONLY)

You are hereby notified that the above report is a formal charge and will be considered and determined at a hearing to be held. ♦ Por este medio se le notifica que el informe anterior es un cargo formal el cual se considerará y determinará en una audiencia a celebrarse.

The inmate shall be permitted to call witnesses provided that so doing does not jeopardize institutional safety or correctional goals. ♦ Se le permitirá al recluso llamar a testigos con tal de que al hacerlo no pondrá en peligro la seguridad de la institución o los objetivos del Departamento.

If restricted pending a hearing for this misbehavior report, you may write to the Deputy Superintendent for Security or his/her designee prior to a hearing to make a statement on the need for continued prehearing confinement. ♦ Si está restringido pendiente a una audiencia por este informe de mal comportamiento, puede escribir al Subsuperintendente de Seguridad o a su designado antes de una audiencia para hacer un statement sobre la necesidad de confinamiento preaudiencia.

12/08/14  
DCP004STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES PAGE 1  
DISCIPLINARY HEARING DISPOSITION RENDERED

EASTERN GEN

TAPE NUMBER 11-11-14

(EXJ)

DIN: 12B1626 NAME: FOX, JAVELL

LOCATION: SH-12-018

INCIDENT DATE &amp; TIME: 12/07/14 11:25 AM TIER 2

REVIEW DATE: 12/08/14 BY: LT SCHOEP

DELIVERY DATE &amp; TIME: 12/08/14 07:54 AM BY: CO OSTERHOUDT

HEARING START DATE & TIME: 12/11/14 10:07 A BY: LT SimmonsHEARING END DATE & TIME: 12/11/14 0:55 A BY: LT Simmons

CHARGE NUMBER	DESCRIPTION OF CHARGES	REPORTED BY	DISPOSITION
113.20	EXCESS/ALTERED CLOTHES	CO J WAUGH	9
106.10	REFUSING DIRECT ORDER		10
116.10	PROPERTY DAMAGE OR LOSS		11

ANY GUILTY DISPOSITION WILL RESULT IN A MANDATORY DISCIPLINARY SURCHARGE IN THE AMOUNT OF FIVE(\$5.00) DOLLARS BEING ASSESSED AUTOMATICALLY AGAINST THE INMATE.

PENALTY CODE	DESCRIPTION	PENALTY MO DAYS	START DATE	RELEASE DATE	SUSPEND MO DAYS	DEFERRED MO DAYS	RESTITUTION \$\$\$\$ . cc
B	RL	30	12/7/14	1/6/15			
D	LOR	30	12/7/14	1/6/15			
E	Comm	30	12/7/14	1/6/15			
E	Has	30	12/7/14	1/6/15			
G	PHONES	30	12/7/14	1/6/15			
R	SPEE	30	12/7/14	1/6/15			
UOOD	CONVERSATION						
KOOD	Restitution						

4 pages of STATE PARTS

12/08/14  
DCP004

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES PAGE 2  
DISCIPLINARY HEARING DISPOSITION RENDERED

EX

DIN: 12B1626 NAME: FOX, JAVELL

HEARING DATE: 12/14/14

A. STATEMENT OF EVIDENCE RELIED UPON:

THE WRITTEN MISBEHAVIOR REPORT AND  
THE EVIDENCE PRESENTED SHOWING SMOK-  
OUTS IN THE WAISTBAND OF YOUR PANTS NEAR THE  
FASTENER.

B. REASONS FOR DISPOSITION:

TO ADDRESS YOUR FAILURE TO REPORT THE  
THAT YOU HAD NOT REPORTED THE SMOK-  
ITEMS.

C. SPECIAL INSTRUCTION ON CORRESPONDENCE RESTRICTIONS AND REFERRALS

I HAVE RECEIVED A COPY OF THIS HEARING DISPOSITION DATED: 12/14/14

HEARING OFFICER SIGNATURE

INMATE SIGNATURE

DATE & TIME RECEIVED

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING APPEAL PROCEDURES:

FOR TIER II HEARINGS-APPEAL TO SUPERINTENDENT WITHIN 72 HOURS.

FOR TIER III HEARINGS-APPEAL TO COMMISSIONER WITHIN 30 DAYS.

\*\*\*SUCCESSFUL PRINT COMPLETION\*\*\*

JAVELI FOX 12B1626 SH-12-18

(EXHIBIT K)

DATE: DECEMBER 25, 2014

Grievance NO,

EASTERN CORRECTIONAL FACILITY

On December 23, 2014 SGT Bey sent officer Cotton to my Assigned in Southhall 12-18 to bring me downstairs to speak with me, at that time the officer whom I don't know his name aggressively frisked me while SGT and officers stood around in an intimidated fashion. On this day after the frisk was complete SGT Bey told me that I have a week to cut my hair or I'm gonna get a Tier 3 Ticket, I don't know how that's possible, to get a tier 3 ticket for something that doesn't have to do with safety and security. SGT Bey also made me aware that his superiors sent him.

Janelle ~

Action Requested

To stop being harassed, and my constitutional rights to freedom of religion be respected, I also gave the Superintendent notice of my constitutional rights, so officers can't claim negligence, they will answer and argue and be held liable in there personal capacity. I request that Superintendent also pass this notice to officers. AND for no officers

059 11 THANKS/weapons, drop 582 or

JOURNAL FOR THE TRIBUNE SOUTH HALL 12-18  
 December 23, 2014

(EX L)

Grievance No.  
 EASTERN CORRECTIONAL FACILITY

I informed officers, several officers that I can't get my food through the bottom slot, the feed up tray won't fit, and I asked to be moved to different cell, OR if they could open the door and pass me the tray, they tell me they gonna look into it, in order to get my food I had to CLIMB a chair then put my foot on the gate to grab it through the top like a monkey, some officers even watched in Amusement like officer Henry and officer cotton.

On December 23, I Climbed to get my tray (As I had to do for the past 16 days plus 3 day prior) and AS I pulled the tray through the top I slipped Hit my head AND pulled my back out of place, I am now admitted in the Hospital and Have been given a can to walk, I'm in excruciating pain, All because officers are lazy, incompassionate not properly trained and have superiority complexes, and cell is not fit for keeplock.

Janell Z

Action Requested

That officers open my cell if I Return to SH 12-18, and that in the Alternative I be moved somewhere where I could get my keeplock trays normal and Dont have to climb.

Howell, FOX 13526 S H 12-11 12/18/11  
 Eastern Correctional Facility, P.O. Box 332, Haverhill, MA 02445  
 To: Superintendent, Commissioner, Attorney General, Governor

## U.S. Constitution 1<sup>st</sup> Amendment and NEW YORK STATE CONSTITUTION: "NOTICE"

Congress shall make no law prohibiting the exercise of religion, therefore my hairstyle is a exercise of that law guaranteeing me a Right to freedom of Religion, that can only be limited in the Department of Corrections if it poses a threat to security, safety or the order of the facility. My Hairstyle poses no threat to safety or security or the order of the facility, so if any officials infringe on my Right to exercise my religion through the expression of my Hairstyle these officers or officials will be held to proceed in Answer and Argument in there official capacity for not being trained properly and made aware of the Right to prisoners, NY corr law 610(1) under the constitution, period! But primarily in regards to Freedom of religion practice, Exercise and Expression. They will also be held to Answer and Argue in there personal capacity, I am making you aware of my Right, any further violations there of is intentional infringement. you are the principle, you have been notified, notice to the principle is Notice to the Agent - Amaker v. Gourd, 2012 (W.D.N.Y. Aug 16, 2012).



From: Javell Fox 1731626 SH-12-18  
 EASTERN CORR FAC  
 P.O. Box 338  
 Napanock N.Y 12458

76147-14 DS  
 Please Respond inmate  
 EASTERN NY C.F.  
 SUPERINTENDENT'S OFFICE  
 2014 DEC 8 AM 10 10

To: Superintendent

Date: 12-7-14

on 11-9-14 I was given a misbehavior report by officer skred for refusing a direct order. officer skred claimed that my hair was not in compliance with Directive 4914 of inmate grooming standards. I have locks going back and the sides of my hair cut. at the hearing held on 11-12-14 Lt Simmon found me not guilty, and per directive concluded that my haircut/ hair style was in compliance. on the ticket officer skred lied about how my hair was styled. when she saw me she said she had to because Lt. <sup>madsen</sup> ~~blackson~~ gave her a order. (very unprofessional).

Lt Wilson gave me a order prior to that ticket not to braid my locks or cornrow my locks, which I promptly followed.

on December 7, 2014 officer cruz directed officer williamson to search me, where he took off my shoes and had me in my sock in the hallway. I was then sent back to my assigned cell after the search. 10 minutes later officer williamson arrived at my assigned cell, ordered me out and began to search. he asked me if I knew why he was there, I stated no, he said that Lt <sup>madsen</sup> ~~blackson~~ gave me a order and I told him, I followed it, and had a hearing for that order, and again a officer is being sent by Lt Wilson. I told officer williamson that I had a hearing and was found not guilty by hearing officer Lt simmons. and by Law and Directive 4914 my Hair is in compliance. officer williamson stated that Lt Simmons doesn't know anything, and he don't know how things run around here. I also have witnesses that heard this statement. Lt Simmons is Black, and Lt Wilson is white, officer williamson is white, so officer 062 williamson and Lt <sup>madsen</sup> ~~blackson~~ 0606.

issue. It is no reason for me to be on keep lock status for my hair representing my culture and in compliance with Directive. I also Request not to be setup with Drugs or weapons or positive urine test or Assault by officers, I don't use Drugs, or sale Drugs, I don't make weapons or use weapons, I'm not violent, these are tactics officers use to punish inmates for using the Grievance system, it's not far fetched, for my ticket being dismissed I been Harassed for a month by officers now leaving in a misbehavior report for my hair again and possibly another ticket. officer Cruz left his post just to Harass me. I request to be Assisted in filing criminal charges against officer Cruz, officer Williamson and Lt <sup>Madison</sup> ~~Madison~~. I fear for my safety at 6:15 PM I was given a urine test, officers are going great lengths to punish me for no reason, just because of my hairstyle. officer Williamson even stated that he was searching my person and assigned cell because of my hair. Lt and officers are exceeding the scope of there duty to the point of gang activity. officers and Lt are also violating my right to religion by constantly forcing to remove my religious head wear just to see my hair like I'm a freak show. I'm being degraded and cruel and unusually punished. Facility Grievance have been filed in this matter and a notice of intent is being Prepared.

CC I.G.

CC Commissioner

CC Attorney General

CC Governor

JBL47-14

Janell Ly

I am indigent, I owe Advances for legal copy's and I have a Pending Surcharge therefore the Facility takes 100% of my idle pay. I request An Advance from the Facility To get Hygiene Products, a drinking mug (because you ordered the C.O's to Confiscate all water bottles, so now I can't get water to drink, and stamps so I could write my Relatives and the newspaper and inform them of the atrocities to me in your facility. also on November 9, 2014



① 1416  
2-10-14

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION  
EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
(845) 647-7400

WILLIAM A. LEE  
SUPERINTENDENT

TO: T. Mauro, Grievance Supervisor  
FROM: W.J. Webbe, Captain  
SUBJECT: Grievance # 26147-14  
DATE: 16 December 2014

In regards to the above mentioned grievance, I submit the following response. On 09 November 2014, Inmate Fox, J. #12B1626, received a misbehavior report for refusing a direct order (106.10). The report was processed and Inmate Fox had a hearing on 12 November 2014. The Hearing officer was Lieutenant Simmons, with the information Lt. Simmons had at the time of the hearing and the fact no witnesses to the incident were called, Lt. Simmons dismissed the charges. Lt. Simmons based his decision on the hairstyle Inmate Fox had at the time of his hearing.

\* refer to memo; webbe/fox dated 12 December 2014, pg.2 of 2, first paragraph, which states, " Your statement to me was, that the single braid hair style you had on 06 November 2014, as observed by Lt. Madison and Officer Szkred, was not the same as what you had on 09 November 2014, nor was it the same as you had on 12 November 2014, the day of the Disciplinary hearing."

As far as Inmate Fox's statement that I'm misinterpreting the directive, it is my job and responsibility to interpret and enforce the directives. Inmate fox has the right to appeal, grieve, complain and litigate, but as stated, his hair is not in compliance and his state issued pants have been altered, these are facts as clearly written in the directives and in the misbehavior reports, as well as the Employees memos.

Inmates next statements are just bizarre and shows a clear intent to attempt to bypass Department directives. he claims to be Rastafarian, yet his religion on record, as of 17 September 2014 is Nation of Islam. He then claims to be a Native American, "Cherokee" and his hair is now a symbol of his heritage. This claim is not substantiated by any documentation or record.

I never stated to Inmate Fox, if you don't cut your hair, by the time you go to your hearing, you're going to be found guilty. What I stated was, "The fact remains, you must get into compliance with directive # 4914, or a misbehavior report will be issued.

refer to memo; webbe/fox dated 12 December 2014, pg. 2 of 2, end of seventh paragraph.

Inmate Fox states he wants to be allowed to wear his "hairstyles", because of religious, heritage and personal believes, he states his interpretation of the directive. All of his "claimed" reason for his hairstyles have been addressed by the directive, each claim is covered in section 2a and 2b. Inmate Fox does not want to come into compliance with this directive and has attempted to go around it by citing every protected class and hairstyle. The fact remains, that his hairstyles are not permitted, per the directive.



2614714

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
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WILLIAM A. LEE  
SUPERINTENDENT

TO: T. Mauro, Grievance Supervisor

FROM: W.J.Webbe, Captain

SUBJECT: Grievance # 26147-14

DATE: 16 December 2014

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Inmates next statements are just bizarre and shows a clear intent to attempt to bypass Department directives. he claims to be Rastafarian, yet his religion on record, as of 17 September 2014 is Nation of Islam. He then claims to be a Native American, "Cherokee" and his hair is now a symbol of his heritage. This claim is not substantiated by any documentation or record.

I never stated to Inmate Fox, if you don't cut your hair, by the time you go to your hearing, you're going to be found guilty. What I stated was, "The fact remains, you must get into compliance with directive # 4914, or a misbehavior report will be issued.

refer to memo; webbe/fox dated 12 December 2014, pg. 2 of 2, end of seventh paragraph.

Inmate Fox states he wants to be allowed to wear his "hairstyles", because of religious, heritage and personal believes, he states his interpretation of the directive. All of his "claimed" reason for his hairstyles have been addressed by the directive, each claim is covered in section 2a and 2b. Inmate Fox does not want to come into compliance with this directive and has attempted to go around it by citing every protected class and hairstyle. The fact remains, that his hairstyles are not permitted, per the directive.

Pg 2 of 2  
webbe/fox

② 1/16 26147-14

As for highlighting the specific parts of the directive, that was for Inmate Fox's benefit he was asked to identify specifically what his hairstyles were called and then shown where those particular hairstyles violated directive # 4914. The word "twisted" was used by Inmate Fox, not me. Inmate Fox stated to me that he had dreadlocks and that the sides were a basic cut, "short" by definition. This is a combination of two hairstyles, which is clearly delineated by Directive # 4914, heading 2, sub heading b. Refer to memo; webbe/fox dated 12 December 2014; pg 1 of 2, forth paragraph.

Inmate Fox's statement that he advised me of harassment by Officer Cruz and that I didn't care, is false. Inmate Fox's allegations have been addressed and Officer Cruz has submitted memos. Inmate Fox states, admittedly that his pants had slits in them, this is what precipitated the cell search, as well as the misbehavior report and the urinalysis request.

Inmate Fox states, that he has a witness to statements allegedly made by the Officer who searched his cell and co-signed the misbehavior report. Inmate Fox has not identified the witness, but, per directive # 4932, 253.5, Inmate Witnesses, Inmate Fox has the right to call this witness and have him testify at his hearing.

As stated in my response to Inmate Fox dated 12 December 2014, I find no instance of Employee misconduct, Inmate's claim of harassment and persecution are without merit, substance or fact. Inmate Fox needs to get into compliance with Department directives. His complaints as well as this grievance are disingenuous in nature and an attempt to circumvent Department directives to wear his Hairstyles in whatever way he chooses.



26147-14

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
(845) 647-7400

WILLIAM A. LEE  
SUPERINTENDENT

To: Capt. Webbe  
From: Sgt. J. Connor  
Subject: Inmate Fox  
Date: 12/18/14

On 12/7/14 during a random pat frisk Officer Williamson found a slit cut into the waistband of inmate Fox's state pants. As a result of of Officer Williamson's findings there was a reasonable suspicion that there was contraband contained in inmate Fox's housing unit 12-18, I Sgt J. Connor then authorized a cell search of his living quarters.

Respectfully Submitted

Sgt J. Connor

A handwritten signature in black ink, appearing to be "J. Connor", written over a horizontal line.

26147-14

## Eastern New York Correctional Facility

### Memorandum

To: Captain Webb

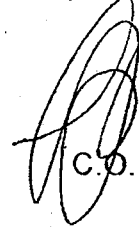
From: C.O. S. Cruz

Date: 12/16/14

Subject: Inmate Fox 12B1626 Grievance #26147-14

On December 11, 2014 I C.O. S. Cruz worked in South Hall running 16 company. I did see inmate Fox in the lobby being escorted by another corrections officer and all I said to inmate Fox was your keep locked (this was phrased as a question). At no time did I provoke, tease, or taunt inmate Fox. While on duty at Eastern Correctional Facility I conduct myself in a professional manner at all times.

Respectfully Submitted,



C.O. S. Cruz



26147-14  
① 12/12



STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
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NAPANOCH, NEW YORK 12458  
(845) 647-7400

WILLIAM A. LEE  
SUPERINTENDENT

# 12B1626 Fox, J.  
SH-12-18

12 December 2014

I am in receipt of your letter of complaint dated 07 December 2014. I have requested and received memos from all identified Staff.

I meet with you on 12 December 2014, the interview took place in the computer room, located on the Guard room floor. During the interview the following items were discussed.

- 1) Directive # 4914 Grooming standards.
- 2) CORC decision, concerning "corn rows and ponytails".
- 3) The misbehavior report, dated, 09 November 2014.
- 4) Identified "Lt. Wilson" to be in fact Lt. Madison.
- 5) When you received direction from Lt. Madison and when you complied with same.
- 6) What exactly your current hair style is and what you determine it is called.
- 7) The interpretation of the wording "twisted" in directive # 4914.
- 8) Why and what exactly you meant by the statement, "I fear for my safety".

During the interview, you removed your head covering to display your current hair style, at which time I advised you that you were not in compliance with Directive # 4914. I showed you the directive and pointed out to you where the violations were. You stated to me several things. First, that the hair style you have is a dreadlock style. I indicated and showed you Directive # 4914, page 3 of 4, heading 2, sub-heading (a). "The dreadlock hairstyle is allowed. When worn, dreadlocks must extend naturally from the scalp and may not be woven, twisted, or braided together forming pockets that can not be effectively searched".

We also discussed the 08 allowable basic haircuts. You stated to me that, you had a "basic hair cut". I advised you that per directive # 4914, page 3 of 4, heading 2, sub heading (b). "Inmates may wear only one approved hair style; no combination of approved hairstyles is allowed". Your combination of a "short" haircut on the sides and "dreadlocks" on the top, constitutes a "combination" of two approved hair styles and per Directive # 4914, is not allowed.

26147-14  
② 12/12

Pg. 2 of 2  
webbe/fox

We then discussed your concerns, based on the recent misbehavior report you received, as well as a cell frisk and urinalysis request. Your statement to me was, that the "single braid" hair style, you had on 06 November 2014, as observed by Lt. Madison and Officer Szkred, was not the same as what you had on 09 November 2014, nor was it the same style on 12 November 2014, the day of your disciplinary hearing. When asked if the hair style you had on the 9<sup>th</sup> of November, was the same as you had on this date, 12 December, you stated "yes". I then advised you that your current hair style was not in compliance, based on Directive # 4914.

We next discussed the pat frisk, as performed by Officer Williamson on 07 December 2014. Officer Williamson submitted a memo and advises, that on that date he pat frisked you and during said frisk, a small slit was discovered in the waist band of your pants, next to the snap. Officer Williamson continued the pat frisk and reported his findings to the Area Sergeant, who authorized Officer's Williamson and Waugh to perform a cell frisk. During the cell frisk the following items of contraband were recovered.

1) 4 - State green pants, w/ slits cut in the waistband, forming a pocket.  
The items of contraband were confiscated and secured and a misbehavior report generated. You were keep locked for this infraction and as of this writing, remain keep locked pending a disciplinary hearing. Based on this information, a urinalysis request was submitted.

We spoke about your concerns for your safety and I asked you to elaborate, you stated to me that your "freedom" was in jeopardy. You further stated that because of all these recent events, you felt these incidents were escalating.

We also spoke about your religious denomination, which at the time of this writing is Nation of Islam and not Rastafarian, which you now claim to be.

I have read the memos supplied by Staff and I have looked at the documents involved, ie: misbehavior reports, frisk log/cell search log and I find no inconsistencies with good security practices. I do not find any Employee misconduct and I find no basis for your statement that you, "fear for your safety".

I do find, that while the original misbehavior report was dismissed, per Directive # 4914, your hair is still not in compliance, as stated in a recent misbehavior report dated 07 December 2014 and my interview and observation of you on today's date. While you were not charged with this infraction, the fact remains, you must get into compliance with Directive # 4914, or a misbehavior report will be issued.

As for your other allegations, I find them without merit. I advise you to come into compliance with the Directive and display a more positive attitude towards having contraband items in your possession.

26147-14

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NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES  
EASTERN NEW YORK CORRECTIONAL FACILITY

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TO: CAPTAIN WEBBE  
FROM: LIEUTENANT MADISON  
SUBJECT: INMATE COMPLAINT FOX, J. 12B1626  
DATE: 12/10/2014

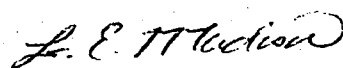
Sir:

On 11/06/2014 while on rounds I had observed inmate Fox 12B1626 in the facilities barber shop receiving a hair cut. Inmate Fox had the sides of his head shaved leaving a "MOHAWK" style hair cut on top of his head. Inmate Fox also had his hair that remained in this "MOHAWK" style cut braided in sections and joined each braided section together linking all the braids together. Inmate Fox attempted to state to me that he did not have braids, but he had "dreadlocks", with my 26 years in the department I have learned to distinguish the difference between dreadlocks and braids.

Per departmental Directive 4914 Section III REGULATIONS subsection B 2. Hair  
a. Only basic haircuts will be allowed, see attached Directive 4914. In regard to the braid that inmate Fox had woven together in one continuous braid. I had instructed Fox of the proper way that braids were to be worn, which is "corn row" style. I informed Fox that his complete hair style as he was wearing was not in compliance at all with Directive 4914. I had also indicated that if in fact he did have dreadlocks he was not permitted to weave, twist, or braid them together as per Directive 4914. I then gave Inmate Fox a direct order to put himself in compliance with Directive 4914 Inmate Grooming Standards. By inmate Fox having this type of hair style he has also changed his appearance from what his ID card indicates as having a full head of hair. Inmate Foxes failure to follow staff direction and his disregard for departmental rules and regulations is the reason he has been written any misbehavior reports.

At no time have I Harassed this inmate or any other inmate at no time have I violated this inmate's religious right. The fact that Lt. Simmons is black and that I am white has no bearing on me performing my job. At no time have I continued to send Officers to this inmate's cell to harass him. I conduct myself in a professional manner at all times always maintaining care, custody, and control as well as being firm, fair, and consistent.

Respectfully Submitted,



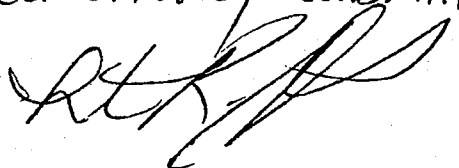
Lt. E. Madison

26147-14

TO CAPT WEBBE  
FM LT SIMMONS, DISCIPLINARY  
SUBJ LTR OF COMPLAINT  
DATE 12/11/14

RE LTR DTD 12-7-14 (12B1626 Fox)

ON 11/12/14 I CONDUCTED A TIER II  
HEARING ON 12B1626 Fox FOR AN INCIDENT DATE  
OF 11/9/14, CHARGING 106.10 REFUSING DIRECT ORDER.  
UPON VIEWING THE INMATE AT THE HEARING AND  
REVIEWING DIR 4910-4914, I DETERMINED THAT HIS  
HAIR STYLE WAS WITHIN THE GUIDELINES AND FOUND  
HIM NOT GUILTY OF THE CHARGE.

RESPECTFULLY SUBMITTED  


ENCL



26147-14

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
(845) 647-7400

WILLIAM LEE  
SUPERINTENDENT

To: Lt. Madison  
From: C.O. J.Szkred  
Date: 12/11/14  
Re: Misbehavior report on Fox, Javell #12B1626

On Thursday, November 6, 2014 at approximately 12:45PM, I correction officer Szkred counseled inmate, Fox #12B1626 about his hair style not being in accordance to the grooming standards in directive #4914. Inmate Fox had a Mohawk styled cut with one braid from front to back and the sides were shaved, in the back of his head at the bottom of his single braid there were multiple strands of braids hanging loose. It was clearly a designer hair style.

On November 9<sup>th</sup> of 2014, I had followed up on inmate Fox to find, he did not comply and wrote him a misbehavior report for disobeying a direct order at which time he was placed in keep lock status and area Sgt. was contacted.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "J. Szkred C.O.", written in dark ink.

Correction Officer, J. Szkred

26047-14

## Eastern New York Correctional Facility

### Memorandum

**To:** Lt. Madison

**From:** C.O. S. Cruz

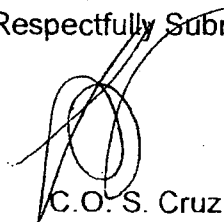
**Date:** 12/10/14

**Subject:** Inmate Fox 12B1626 - Complaint

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On December 10, 2014 I C.O. S. Cruz was working in West Wing as the #2 officer. When inmate movement is going on I stand in the West Wing corridor. During the afternoon chow run C.O. Williamson was conducting random pat frisks by mess hall #1. I did not tell C.O. Williamson to pat frisk inmate Fox 12B1626. I stood behind C.O. Williamson while he conducted the pat frisk. At no time have I done any of these allegations that inmate Fox has stated nor have I threaten, harassed, or verbal abused inmate Fox. While working at Eastern Correctional Facility I conduct myself in a professional manner at all times.

Respectfully Submitted,



C.O. S. Cruz

Pg (1)

26147-14


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NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES  
**EASTERN NEW YORK CORRECTIONAL FACILITY**  
NAPANOCH, NEW YORK 12458

---

To: LT. Madison  
From: R. Williamson C.O.  
Date: 12-10-14  
Re: INMATE Fox- 12B1626, Complaint.

---

  
Sir on 12-10-14 I performed a random pat frisk of  
INMATE Fox-12B1626 as he exited the messhall. I performed  
a proper frisk of inmate Fox. I had inmate Fox remove his  
headware, place his hands on the wall, and step back for  
his pat frisk. I discovered a small slit in the waistband  
of his pants next to his snap. There <sup>RW</sup> inmates smuggle  
contraband in places like this. I ordered inmate Fox to  
lift his left foot. I removed his boot and searched for contraband.  
I placed his boot back on his foot so he could slide his  
foot back into the boot. I did the same with his right  
foot. Inmate Fox complied with the pat frisk, and left  
with no incident. I reported my finding of the small slit  
in the waistband of inmate Fox's pants to Sgt. Connor. Sgt.  
Connor gave me direction to search inmate Fox's cell.  
I ordered inmate Fox to exit his cell, I pat frisked



Pg - (2)

26177-14

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NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES  
**EASTERN NEW YORK CORRECTIONAL FACILITY**  
NAPANOCH, NEW YORK 12458

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To: LT. Madison  
From: R. Williamson Co.  
Date: 12-10-14  
Re: INMATE FOX 12B1626, Complaint

---

Fox again, I did not Escort Fox To his Cell. I Searched inmate Fox's Cell. I Found and Confiscated (4) pair of State Issue Green Pants from inmate Fox. The pants All (4) of Them had a small slit in the waistband next to the snaps, and one pair also had a slit in the zipper fold. I brought all items To Sgt. Connor. The Watch Commander had been informed of all information, and Fox - 12B1626 had been placed on Keeplock status at That Time. Sir I performed my duties in a professional manner, and confiscated all contraband items as per Directive 4910, Control, and Search for Contraband. I at no time spoke in an unprofessional manner Towards any Supervisor during This Cell Search.

Respectfully Submitted.

R. Williamson Co.

R. Williamson C.O.

26147-14

1/12)

## STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

## EASTERN CORRECTIONAL FACILITY

## Inmate Misbehavior Report ~ Informe De Mal Comportamiento Del Recluso

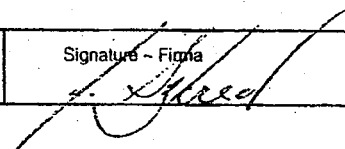
Name of Inmate (Last, First) - Nombre Del Recluso (apellido, nombre)	No. - Num	Housing Location - Celda
JOX, JAVELL	12B1626	SH-12-8
Location of Incident - Lugar Del Incidente	Incident Date - Fecha	Incident Time - Hora
YARD GATE	11/9/2014	APPROX 10:30AM

3. Rule Violation(s) \* Violaciones

106.10 DIRECT ORDER

4. Description of Incident - Descripcion Del Incidente

On 11/6/14 I, Officer J. Szkred, observed Inmate Fox 12B1626 with the sides of his head shaved and 1 large braid down the center of his head. I counseled Inmate Fox and ordered him to fix his hair to be in compliance with directive 4914 Inmate Grooming Standards. On 11/9/14 I observed Inmate Fox with the same hair style and when I questioned him about it he said "I'm not going to change my hair". Inmate Fox admitted that he is going to continue to defy the rules set forth in directive 4914. Area Sergeant Fassetta was notified and Inmate Fox was placed on keeplock status. It should be noted that Inmate Fox has been counseled for the same infraction by numerous security staff in the recent past, including Lt. E. Madison on 11/6/14.

Report Date - Fecha	Reported by - Nombre De La Persona Que Hace El Informe	Signature - Firma	Title - Titulo
11/9/2014	J. Szkred		C.O.

5. Endorsements of other employee witnesses (if any)

Signatures:

Endosos De Otros Empleados Testigos (si hay)

Firmas

1

3

Note: Fold back page 2 on dotted line before completing below

6. Were other inmates involved?

☐ Yes☒ No

If yes, give name &amp; #

7. At the time of this incident, was inmate under prior confinement/restriction?

☐ Yes☒ No

or

As a result of this incident, was inmate confined/restricted?

☒ Yes☐ No

8. Was Inmate moved to another housing unit?

☐ Yes☒ No

If yes, (a) current housing unit

(b) Authorized by

9. Was physical force used?

☐ Yes☒ No

(if yes, file form 2104)

Area Supervisor Endorsement

Dist: WHITE - Disciplinary Office CANARY - Inmate (After review)

077

0597

FORM 2171A (1/12)

STATE OF NEV. JRK - DEPARTMENT OF CORRECTIONS AND COMM. JTY SUPERVISION

Side 1

EASTERN

Correctional Facility

28147-14

## INMATE MISBEHAVIOR REPORT • INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

1. NAME OF INMATE (Last, First) • NOMBRE DEL RECLUSO (Apellido, Nombre)	NO. • NÚM.	HOUSING LOCATION • CELDA
Fox, J.	12B1626	S.H. 12-18
2. LOCATION OF INCIDENT • LUGAR DEL INCIDENTE	INCIDENT DATE • FECHA	INCIDENT TIME • HORA
OUTSIDE MESS HALL #1/CELL 12-18	12-7-14	approx. 11 <sup>25</sup> AM
3. RULE VIOLATION(S) • VIOLACIONES		
106.10-DIRECT ORDER		
113.20-ALTER STATE CLOTHING		
116.10-DESTROY OR DAMAGE STATE PROPERTY		
4. DESCRIPTION OF INCIDENT • DESCRIPCIÓN DEL INCIDENTE		
<p>ON THE ABOVE DATE AND APPROXIMATE TIME, C.O. WILLIAMSON AND MYSELF CONDUCTED A RANDOM PAT FRISK ON INMATE FOX 12B1626 OUTSIDE OF MESS HALL #1. UPON REMOVAL OF HIS HEAD COVERING IT WAS DISCOVERED HE HAD AN UNAUTHORIZED HAIR STYLE OF A MOHAWK WITH DREAD LOCKS. THIS IS IN VIOLATION OF DIRECTIVE 4914-INMATE GROOMING STANDARDS III-B-2-a,b. UPON FURTHER INVESTIGATION IT WAS DISCOVERED THIS INMATE HAD PREVIOUSLY BEEN ORDERED TO FIX HIS HAIRSTYLE BY LT. MADISON. THIS ORDER HAS YET TO BE OBEYED. DURING A SUBSEQUENT CELL SEARCH OF FOX'S CELL, AUTHORIZED BY SGT CONNOR, INMATE WAS FOUND TO BE IN POSSESSION OF 4 PAIRS OF STATE PANTS THAT HE HAD ALTERED BY PUTTING A SLIT IN THE WAIST BAND CREATING A POCKET. PANTS WERE CONFISCATED AND BROUGHT TO WEST WING COURT. VALUE OF PANTS IS \$11.08 PER PAIR. AREA SUPERVISOR NOTIFIED. INMATE FOX PLACED IN KEEP LOCK STATUS.</p>		
REPORT DATE • FECHA	REPORTED BY • NOMBRE DE LA PERSONA QUE HACE EL INFORME	SIGNATURE • FIRMA
12-7-14	J. WAUGH	C.O.
5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any)		SIGNATURES:
ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		FIRMAS: 1. <u>[Signature]</u> R. Williamson CO.
2. _____		3. _____

NOTE: Fold back Page 2 on dotted line before completing below.

6. WERE OTHER INMATES INVOLVED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		IF YES, GIVE NAME & # _____
¿HUBO OTROS RECLUSOS ENVUELTOS? SÍ <input type="checkbox"/> NO <input checked="" type="checkbox"/>		DE SER SÍ DÉ LOS NOMBRES Y DIN _____
7. AT THE TIME OF THIS INCIDENT, WAS INMATE UNDER PRIOR CONFINEMENT/RESTRICTION? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		OR • O
¿ESTUVO EL RECLUSO CONFINADO/RESTRINGIDO PREVIO AL INCIDENTE? SÍ <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
AS A RESULT OF THIS INCIDENT, WAS INMATE CONFINED/RESTRICTED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		
¿SE CONFINÓ/RESTRINGÓ AL RECLUSO COMO RESULTADO DE ESTE INCIDENTE? SÍ <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
8. WAS INMATE MOVED AT ANOTHER HOUSING UNIT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
¿MUDARON AL RECLUSO A OTRA UNIDAD DE VIVIENDA? SÍ <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
IF YES, (a) CURRENT HOUSING UNIT _____		(b) AUTHORIZED BY _____
DER SER SÍ, (a) UNIDAD DE VIVIENDA ACTUAL _____		(b) AUTORIZADO POR _____
9. WAS PHYSICAL FORCE USED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> (IF YES, FILE FORM 2104) _____		
¿SE USÓ FUERZA FÍSICA? SÍ <input type="checkbox"/> NO <input checked="" type="checkbox"/> (DER SER SÍ, SOMETA EL FORMULARIO No. 2104) _____		
AREA SUPERVISOR ENDORSEMENT <u>[Signature]</u>		0603

20147-14

DATE	NAME	DIN	OFFICER	TIME	CELL	AUTHOR
12-6-14	Maloussana	05A4835	Vauricka	1:30pm	15-12	DSS
12-6-14	Garcia	10A2548	Vauricka	1:55pm	16-19	DSS
12/6/14	Scott	9SA7777	SHERIDAN	7 <sup>10</sup> Fri - 8 <sup>30</sup> Fri	10-27	DSS
12-7-14	Fox	12B1626	Williamson	12:25pm	12-18	Sgt. Connors
12-7-14	Nieves Andino	04A2998	Vauricka	1:15pm	16-14	DSS
12/7/14	Casares	10A5787	T. Sheridan	8 <sup>45</sup> Fri - 8 <sup>45</sup> Fri	12-17	DSS
12/8/14	Philpotts	07A5430	T. Sheridan	8 <sup>30</sup> Fri - 9 <sup>30</sup> Fri	11-16	DSS
12-9-14	Rogue	07A1002	Vauricka	1:35p	10-5	DSS
12-9-14	Carter	03A2664	Vauricka	2:00p	16-10	DSS
12-9-14	Bosch	07A1476	C. Fisher		13-6	DSS
12/9/14	Barnes	04A4858	T. Sheridan	8 <sup>30</sup> Fri - 9 <sup>15</sup> Fri	15-16	DSS
12/10/14	Swiderski	09B0460	R. Flynn	1:40p	9-3	DSS
12/10/14	Taber	01B1433	P. Flynn	2:10p	16-8	DSS
12/11/14	Rodriguez	10A0880	S. Rivera	10 <sup>36</sup> Mon	13-27	DSS
12/11/14	Cancer	01A4447	S. Rivera	11 <sup>00</sup> Mon	12-24	DSS
12-10-14	Adams	96A7280	Brindley	7:10pm	16-26	DSS
12-11-14	Campos	77A6849	Brindley	7:04pm	9-25	DSS

26147-14


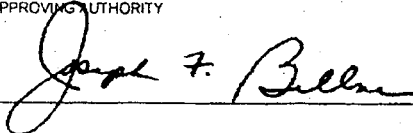
97

## CONTRABAND / COMMENTS

DSS (DD) ① xtra ext. cord, ② Highlighters  
 DSS (DD) NCF  
 DSS (DD) ① Damaged Elec. Extra Cord, State Handsoap, State Green Scrub pad.  
 EC (DD) ④ altered State Green Pants, slt cut in waistband and zipper flap  
 SSS (DD) NCF  
 SS (DD) NCF  
 DSS (DD) NCF — Note: The missing has State Winter Coat, Form 1645 submitted  
 SSS (DD) NCF  
 SS (DD) ① xtra Ext. cord, ① xtra can opener  
 SS (DD) ② Scrub pads  
 SS (DD) NCF  
 SS (DD) NCF  
 S (DD) ③ rolls of Scotch tape ③ sugar packets ② large combs with handles  
 S (DD) ① sugar box 4 rubber bands ① packet of stick on hooks  
 S (DD) NCF  
 S (DD) NCF  
 S (DD) WIRES  
 S (DD) coffee filters, garbage bag, mirror



26147-14

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION</p> <p><b>DIRECTIVE</b></p>	<p>TITLE</p> <p><b>Inmate Grooming Standards</b></p>		<p>NO. <b>4914</b></p> <p>DATE 3/1/2013</p>
<p>SUPERSEDES</p> <p>DIR #4914 Dtd. 03/16/2012</p>	<p>DISTRIBUTION</p> <p>A B</p>	<p>PAGES</p> <p>PAGE 1 OF 4</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (include but are not limited to)</p> <p>Directive #4910</p>	<p>APPROVING AUTHORITY</p> 		

- I. DESCRIPTION:** This directive establishes the basic grooming standards (including criteria for beards, mustaches, and length of hair) for inmates.
- II. PURPOSE:** It is the purpose of this directive to ensure that inmate appearance will be regulated sufficiently to maintain accurate identification of each individual.
- III. REGULATIONS**
- A. Grooming Standards at Reception: Initial shaves and haircuts shall be required of all newly committed male inmates and returned parole violators unless exempted as set forth below. These are required for reasons of health and sanitation, as well as to permit the taking of the initial identification photograph.
1. Shaves: Inmates or returned parole violators who have beards upon reception shall be permitted the option to use an electric razor, hand razor, hand clippers, or a depilatory to remove their beards.
  2. Exemptions to Shaves: The initial shave regulation applies to all inmates and returned parole violators, unless:
    - a. The inmate possesses a Court Order restraining the Department from such enforcement. Any inmate or returned parole violator covered by this exemption shall be classified and transferred in the standard manner and cannot be disciplined or placed in administrative segregation for their refusal to have an initial shave.
    - b. The inmate or returned parole violator professes to be of a religion that would not allow him to shave and thus refuses the initial shave based on a religious objection. The inmate or returned parole violator's objection shall be referred to the Deputy Superintendent for Reception/Classification or equivalent, who shall conduct a review and may consult with the Division of Ministerial, Family and Volunteer Services or Counsel's Office as needed, to determine if a religious exemption to the initial shave is required. The Deputy Superintendent for Reception/Classification will make a recommendation to the Superintendent who will make the final determination. If the Superintendent determines that the inmate or returned parole violator should be exempt from the initial shave, then he shall be classified and transferred in the standard manner and cannot be disciplined or placed in administrative segregation. Further, Counsel's Office shall be contacted to determine if a beard permit should be issued based on his religious objection to shaving.
    - c. The returned parole violator had a Court Order upon initial entry or a verifiable beard permit from the Department that was issued during his current term of imprisonment and there is an acceptable identification photograph of him without a beard in the Department's possession sufficient to provide an accurate identification. The Deputy Superintendent for Reception/Classification shall be responsible for verifying that the parole violator had a Court Order or beard permit during his current term of imprisonment and that the photograph of him on file is sufficient to provide an accurate identification. Any returned parole violator covered by the exemption shall be classified and transferred in the standard manner and cannot be disciplined or placed in administrative segregation for his refusal to have an initial shave.

26147-14

NO. 4914, Inmate Grooming Standards

DATE 3/1/2013

PAGE 2 of 4

3. Refusal to Shave: Inmates or parole violators who refuse the initial shave and do not possess a valid Court Order and do **not** qualify for an exemption to the initial shave shall be subject to appropriate discipline for failing to follow Departmental policy and procedures.

NOTE: Identification photographs of any inmate or returned parole violator who has an exemption to shave or has refused to have his initial shave shall be taken in accordance with the procedures developed to allow for digitally enhanced photographs. Whenever the procedure for digitally enhanced photographs is utilized, the Deputy Commissioner for Correctional Facilities shall be notified of the inmate and the reason for utilizing the digitally enhanced process.

4. Haircuts: Hair length upon completion of this initial haircut shall not exceed one (1) inch on any part of the head.
5. Exemption to Haircuts: Any reception inmate or returned parole violator who professes to be a Rastafarian, Taoist, Sikh, Native American, Orthodox Jew, or member of any other religious sect of a similar nature and refuses to have an initial haircut cannot be forced to comply with the initial haircut requirements. In addition, any reception inmate or parole violator who refuses to comply with the initial haircut regulation on religious grounds and who has a Court Order restraining the Department from enforcing the initial haircut regulation cannot be forced or ordered to comply with the initial haircut regulation.

NOTE: Any inmate or returned parole violator covered by the above exemption shall be classified and transferred in the standard manner and cannot be disciplined or placed in administrative segregation for their refusal on religious grounds to have an initial haircut.

Identification photographs of any inmate or returned parole violator who has not had their hair cut shall be taken in accordance with the following:

- For the frontal view, the hair shall be pulled back away from the face and ears.
- For the side view (profile), the hair shall be pulled back and to the side.

6. Refusal for Initial Haircut: Inmates or parole violators who refuse to comply with the initial haircut regulation and do not possess a valid Court Order and do **not** qualify for an exemption to the initial haircut, shall be subject to appropriate discipline for failing to follow Departmental policy and procedures. This applies even though the identification photographs were obtained with the hair pulled back.
7. An inmate shall not be placed in administrative segregation or disciplinary confinement pending the review of his objection to the initial shave or haircut by the Deputy Superintendent for Reception/Classification or equivalent such as Deputy Superintendent.

- B. General Grooming Standards: After the initial haircut and shave, general grooming standards as set forth below are applicable to all inmates except those inmates participating in the Department's Shock Incarceration Program.

1. Beards and Mustaches: An inmate may grow a beard and/or mustache, but beard/mustache hair may not exceed one (1) inch in length unless:

NOTE: Patterns, designs or braids are not allowed.

- a. The inmate has a Court Order restraining the Department from enforcement; or



26147-14

NO 4914, Inmate Grooming Standards

DATE 3/1/2013

PAGE 3 of 4

- b. The inmate has requested and received an exemption based upon his or her documented membership in a religion which has an established tenet against the trimming of beards including, but not limited to, inmates who are Rastafarian, Orthodox Jew, or Muslim. All inmate requests for such exemption shall be referred to and reviewed by Counsel's Office after consultation with the facility Chaplain. After such review, Counsel's Office will make a recommendation to the Deputy Commissioner for Correctional Facilities. If the request is approved by the Deputy Commissioner for Correctional Facilities, a permit will be issued to the inmate.

Further, pending Counsel's Office's determination of requests for exemption from the one (1) inch rule, inmates shall not be required to cut or trim their beards, disciplined for refusing the order to shave, or subject to repeat orders to shave.

An inmate who refuses to comply with this rule will be given 14 days from the date of the written order to shave in which to request an exemption. If the inmate fails to submit a request for an exemption within 14 days, he may be disciplined for refusal to obey such order.

Copies of the written order, an inmate's request for exemption, and the exemption will be filed in the inmate's legal file.

## 2. Hair

- a. Only basic haircuts will be allowed. Only one straight part will be allowed with no other lines, designs, or symbols cut into the hair. In accordance with established barbering guidelines of the Department's Occupational Training Program, basic haircuts are defined as:

- |                                     |                     |
|-------------------------------------|---------------------|
| • Short, medium, and long           | • Butch             |
| • Short, medium, and long pompadour | • Quo vadis (bald)  |
| • Crew                              | • Afro-natural, and |
| • Flat top                          | • Elevation         |

Hair may be permitted to grow over the ears to any length desired by the inmate. The hair must be neatly groomed and kept clean at all times.

The only braids allowed are the corn row style. Corn row braids may only be woven close to the scalp in straight rows from the forehead to the back of the neck and braids may not extend beyond the hairline. No designs or symbols may be woven into the hair.

2. The dreadlock hairstyle is allowed. When worn, dreadlocks must extend naturally from the scalp and may not be woven, twisted, or braided together forming pockets that cannot be effectively searched. Inmates wearing below shoulder length dreadlocks must tie them back in a ponytail with barrette, rubber band, or other fastening device approved by the Superintendent. **Note:** Inmates of the Rastafarian religious faith may wear their dreadlocks in an approved religious head covering.

See Section III-B-2-d below for inmates assigned to work near machinery or food.

- b. Inmates may wear only one approved hairstyle; no combination of approved hairstyles is allowed.
- c. Long hair is defined as below shoulder length.
- d. Inmates wearing long hair assigned to work near machinery or food shall be required to wear a hair net. Any other inmate assigned to work near food shall be required to wear either a hat or a hair net.
- e. All inmates wearing long hair will be required to have the hair tied back in a ponytail at all times with a barrette, rubber band, or other fastening device approved by the Superintendent.

26147-14

NO. 4914, Inmate Grooming Standards

DATE 3/1/2013

PAGE 4 of 4

Exemption: Native Americans involved in scheduled and approved Native American cultural ceremonies do not have to comply with this restriction.

- f. An inmate may be subjected to a hair search when there is reason to believe that contraband may be discovered by such a search. An inmate may be subjected to such search at any time that a pat frisk, strip search, or strip frisk is being conducted. Consistent with Directive #4910, "Control of & Search for Contraband," during a pat frisk, an inmate will be required to run fingers through their hair. During a strip search, an inmate may be subjected to an inspection of his or her hair. During a strip frisk, an inmate will run his or her hands through the hair.
- C. Photographs: If, in the opinion of a Correction Officer or supervisor, an inmate drastically changes his or her appearance by changing the length, style, and/or color of his or her hair, or growing or shaving a beard and/or mustache, he or she will be re-photographed for identification purposes. All such re-photographs will be at the expense of the inmate.

10:56:56 Tuesday, December 0 2014

26147-14

12/09/14 C100T1M  
10:56:23 C100N099DISCIPLINARY SYSTEM  
100 EASTERN GENERAL  
DISCIPLINARY INCIDENT SUMMARYKDCPM40  
PAGE 1  
MANUAL RECS NDIN: 12B1626 NYSID: 09387063Y NAME: FOX, JAVELL  
CURRENT FACILITY: 100 EASTERN GEN CURRENT HOUSING LOCATION: SH-12-018-----  
TIER 2 INCIDENT: 12/07/14 11:25 AM CO J WAUGH EASTERN GEN  
113.20 EXCESS/ALTERED CL 106.10 DIRECT ORDER 116.10 LOSS/DAMAGE PROP  
-----TIER 2 INCIDENT: 12/20/13 07:10 AM CO VENDITTI AUBURN GENER  
HEARING : 12/26/13 10:18 AM LT VASILE AUBURN GENER  
106.10 DIRECT ORDER 112.21 COUNT VIOLATION  
6D KEEPCLOCK PACKAGE COMMISSARY SERVICE DTES 12/20/13 12/26/13  
6D PHONE SERVICE DTES 12/20/13 12/26/13  
-----

NEXT DIN:

<CURSOR + ENTER> INC DETAIL  
<ENTER> <PF3> EXIT(FUNCT) <PF7> BACKWARD <CLEAR> EXIT(SYSTEM)

NOI 9/17/2014

## **Braids & Ponytail**

26147-14

**CORC # CL-59343-09 I/47 8/31/09**

CORC cites its disposition CL-57214-08, dated 8/20/08, which states, in part, i.e.

**CORC** notes that the grievant was wearing his hair in cornrows, with ends loose, extending below the hairline. CORC asserts that there no provision for this hairstyle in Directive #4914

**Allow Corn Rows Past Hairline CAY-13419-03**

**CORC** asserts that braided hair which extends beyond the hairline is not allowed. The grievant may wear long, unbraided hair in a ponytail, in accordance with Directive #4914

**Change Memo on Corn Rows CX-10983-05**

The only braids allowed in Corn Row style. Corn Row braids may only be woven close to the scalp in straight rows from the forehead to the back of the neck. No designs or symbols may be woven into the hair and the corn row braids may not extent below the hairline.

**Corn Below The Neck Line SHG-21446-05 I/47**

**CORC** cites Directive #4914, Section III., B., 2., a., dated 4/25/05, which states, in part, i.e.; The only braids allowed are the corn row style. Corn row braids may only be woven close to the scalp in straight rows from the forehead to the back of the neck. No designs or symbols may be woven into the hair and the corn row braids may not extend below the hairline.

**Allow Corn Rows Past Hairline 1/6/03**

**CORC** asserts that braided hair which extends beyond the hair line is not allowed. The grievant may wear long, unbraided hair in a ponytail, in accordance with Directive #4914

Inmate Photographs - DIN 12B1626 FOX, JAVELL

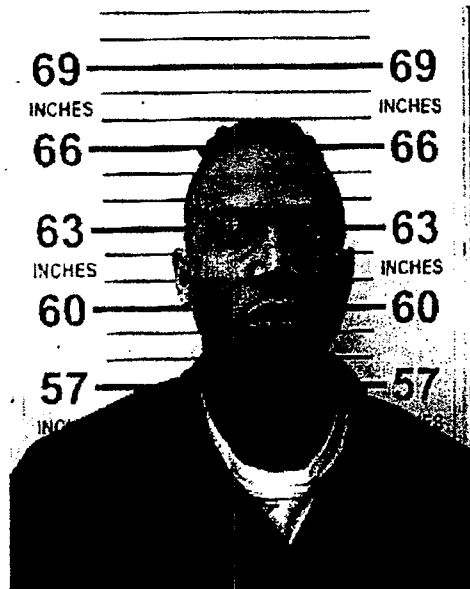
Page 1 of 1



**Department of Correctional Services**  
Inmate Photographs

CIGRCMV - 3/26/2015 2:05 PM

Close

**INMATE INFORMATION:**

Name:	FOX, JAVELL		
DIN:	12B1626	Status:	IN CUSTODY
NYSID:	09387063Y	Owning Facility:	EASTERN GENERAL
Gender:	MALE	Race:	BLACK
Date of Birth:	10/26/1982	Ethnicity:	NOT HISPANIC

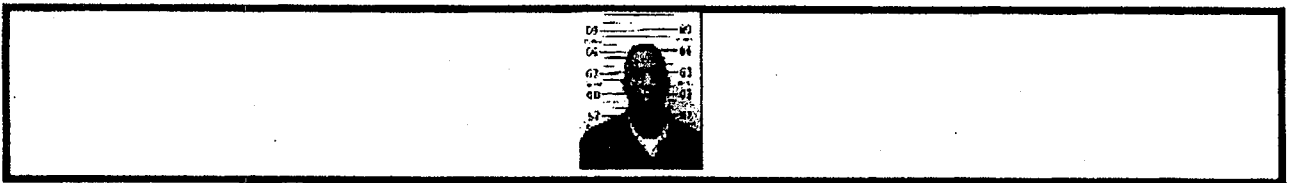
**PHYSICAL CHARACTERISTICS:**

Hair:	BLACK	Height:	5' 7"
Eyes:	BROWN	Weight:	140

SCAR:R/SHOULDER (3"). NO TATTOOS.

**PHOTO INFORMATION:**

Facility Taken:	EASTERN
Date Taken:	3/13/2015 10:50 AM



14:05:47 Thursday, March 26, 2015

03/26/15 \*\*\* FPMS INMATE OVERVIEW \*\*\* KINQM15  
 DIN 12B1626 NAME FOX, JAVELL NYSID 09387063Y  
 FBI 915590LB0 SEX MALE DOB 10/26/1982 ETHNIC NOT HISPANIC RACE BLACK  
 STATUS IN CUSTODY PRSV NT ORIG DATE RECV 06/01/2012 CMC NO  
 CURR FAC EASTERN GEN CELL WW-22-004 OWN FAC EASTERN GEN DIS#  
 REL DIS  
 T/O STATUS REFERRAL 01/26/15 MAX A CUSTODIAL KEEP  
 CRIMES TOTAL CRIMES 0002 RECIDIVIST COMMIT COUNTY  
 CRIM POSS CONTR SUBSTANCE 3RD B ONEIDA  
 CRIM POSS CONTR SUBSTANCE 4TH C ONEIDA

AGGREGATE TERM 0008 06 24 TO 0010 00 00 EARLIEST RELEASE DATE 06/23/2024  
 PH DATE/TYPE TENT RLSE PE DATE TAC DATE/TYPE COND REL MAX EXP DT PRS ME DT  
 09/2022 MERT 06/23/2024 06/2024 INIT 10/14/2024 12/17/2026  
 WARRANT: FELONY WAR ( N ) MISDEMEANOR WAR ( N ) ICE ( N ) PENDING CHARGES ( N )  
 SENTENCE OTHER AGENCY ( N ) DEF SENT ( N ) EXP DATE ( )  
 MOST SERIOUS PRI CRIM POSS CONTR SUBSTANCE 3RD CONVICTION  
 DATE 02/24/11 TYPE OF SENT PRISON TERM  
 SECURITY CLASS MAX B DATE 08/28/14 OTH SEC CHARS NO EXTENDED CLASS RSNS NO  
 UNUSUAL INCID NO MOST CURR TOTAL INCD MED PROB YES  
 PD PGM IDLE, DISCIP(NO PAY)  
 REC LOC

NEXT DIN:

[HTTP://PHOTOS/I.ASPX?D=12B1626](http://PHOTOS/I.ASPX?D=12B1626)

&lt;ENTER&gt; CONTINUE &lt;PF3&gt; EXIT(FUNC) &lt;PF4&gt; RETURN

&lt;CLEAR&gt; EXIT(SYS)

**Vanbergen, Chris M (DOCCS)**

---

**From:** Mauro, Thomas A (DOCCS)  
**Sent:** Thursday, March 26, 2015 4:02 PM  
**To:** Vanbergen, Chris M (DOCCS)  
**Subject:** RE: ECF-26147-14 (Fox, Javell 12B1626)

I will send it to you manana.

**From:** Vanbergen, Chris M (DOCCS)  
**Sent:** Thursday, March 26, 2015 3:54 PM  
**To:** Mauro, Thomas A (DOCCS)  
**Subject:** RE: ECF-26147-14 (Fox, Javell 12B1626)

Thank you, Tom. I only have page 2 so I didn't see a date for the memo, but it references the 12/12/14 memo, so that has to be it.

**From:** Mauro, Thomas A (DOCCS)  
**Sent:** Thursday, March 26, 2015 3:51 PM  
**To:** Vanbergen, Chris M (DOCCS)  
**Subject:** RE: ECF-26147-14 (Fox, Javell 12B1626)

Hello Chris,

1. Yes, Staff has indicated that the inmate changes his hairstyle for his hearings. He continues to be noncompliant with regard to grooming standards and as you can see in his disciplinary record.
2. My copy of the appeal packet included both the 12/12/14 memo (2 pages) and the memo dated 12/16/14 (2 pages). Are you missing page 1 of the 12/16/14 memo?

Let me know! I will get you a copy.

Tom

**From:** Vanbergen, Chris M (DOCCS)  
**Sent:** Thursday, March 26, 2015 2:03 PM  
**To:** Mauro, Thomas A (DOCCS)  
**Subject:** ECF-26147-14 (Fox, Javell 12B1626)

Good afternoon Tom,

Please address the following:

1. Did Fox keep changing his hairstyle before his hearings, or were the hairstyles described determined to be compliant with Directive #4914?? Every time I read a description about the hairstyles he had, be it the Captain's investigation report, the MBR, or the one in the grievance itself, it sounds like the hairstyle was a combination of two styles and non-compliant. But he was found not guilty of the charges related to his hair at both hearings.



2. I have the second page of a memo from Captain Webbe (not the original investigation report), which states "as for highlighting the specific parts of the directive..." and seems to reference the original investigation report. Could you provide me with the first page of that memo?

This case is scheduled to be heard by CORC on 4/15/15.

This is due back by 4/2/15 COB. If you have any questions or concerns, please let me know.

Thank you,

**Chris VanBergen**

Inmate Grievance Program Supervisor

Department of Corrections and Community Supervision

The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050

(518) 457 - 4467 | [chris.vanbergen@doccs.ny.gov](mailto:chris.vanbergen@doccs.ny.gov)

[www.doccs.ny.gov](http://www.doccs.ny.gov)

**Vanbergen, Chris M (DOCCS)**

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**From:** Mauro, Thomas A (DOCCS)  
**Sent:** Friday, March 27, 2015 12:10 PM  
**To:** Vanbergen, Chris M (DOCCS)  
**Subject:** FW: ECF 26147-14, FOX, 12B1626  
**Attachments:** [Untitled].pdf

Hi Chris,

Request is attached. Have a good weekend! FYI-I don't return to work until Wednesday 4/1/15.

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**From:** Mauro, Thomas A (DOCCS)  
**Sent:** Friday, March 27, 2015 11:06 AM  
**To:** Mauro, Thomas A (DOCCS)  
**Subject:** ECF 26147-14, FOX, 12B1626

**Mauro, Thomas A (DOCCS)**

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From: Vanbergen, Chris M (DOCCS)  
Sent: Thursday, March 26, 2015 2:03 PM  
To: Mauro, Thomas A (DOCCS)  
Subject: ECF-26147-14 (Fox, Javell 12B1626)

Good afternoon Tom,

Please address the following:

1. Did Fox keep changing his hairstyle before his hearings, or were the hairstyles described determined to be compliant with Directive #4914?? Every time I read a description about the hairstyles he had, be it the Captain's investigation report, the MBR, or the one in the grievance itself, it sounds like the hairstyle was a combination of two styles and non-compliant. But he was found not guilty of the charges related to his hair at both hearings.
2. I have the second page of a memo from Captain Webbe (not the original investigation report), which states "as for highlighting the specific parts of the directive..." and seems to reference the original investigation report. Could you provide me with the first page of that memo?

This case is scheduled to be heard by CORC on 4/15/15.

This is due back by 4/2/15 COB. If you have any questions or concerns, please let me know.

Thank you,

**Chris VanBergen**

Inmate Grievance Program Supervisor

Department of Corrections and Community Supervision

The Harriman State Campus, 1220 Washington Avenue, Albany, NY 12226-2050  
(518) 457 - 4467 | [chris.vanbergen@doccs.ny.gov](mailto:chris.vanbergen@doccs.ny.gov)

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<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	Mauro, Thomas A (DOCCS)	Delivered: 3/26/2015 2:03 PM

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**Sent:** Thursday, March 26, 2015 3:51 PM  
**To:** Vanbergen, Chris M (DOCCS)  
**Subject:** RE: ECF-26147-14 (Fox, Javell 12B1626)

Hello Chris,

1. Yes, Staff has indicated that the inmate changes his hairstyle for his hearings. He continues to be noncompliant with regard to grooming standards and as you can see in his disciplinary record.
2. My copy of the appeal packet included both the 12/12/14 memo (2 pages) and the memo dated 12/16/14 (2 pages). Are you missing page 1 of the 12/16/14 memo?

Let me know! I will get you a copy.

Tom

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAVELL FOX,

*Plaintiff,*

**DECLARATION**

-against-

15-CV-0144

DIANE LABATTE,

LEK/RFT

*Defendant.*

---

JEFFERY HALE, on the date noted below and pursuant to § 1746 of title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1. I am the Assistant Director of the Inmate Grievance Program for the New York State Department of Corrections and Community Supervision ("DOCCS"). As such, I am fully familiar with the grievance procedure available to inmates for filing complaints in the DOCCS system. I submit this declaration based on personal knowledge and upon review of the applicable Regulations and DOCCS Directives.
2. As the IGP Assistant Director, I am the custodian of records maintained by the Central Office Review Committee (CORC), which is the body that renders the final administrative decisions under DOCCS' Inmate Grievance Program pursuant to 7 NYCRR § 701 *et seq.*
3. Though not named as a party to this lawsuit, I submit this declaration in support of defendants' motion for summary judgment.



4. The inmate grievance process established by 7 NYCRR § 701.7 involves three steps: (1) complaint to the Inmate Grievance Resolution Committee (IGRC) at the individual facility; (2) appeal to the Superintendent of the facility; and (3) appeal to CORC.

5. CORC is the final appellate level of the Inmate Grievance Program.

6. DOCCS also provides for an expedited procedure for the review of grievances alleging harassment by DOCCS employees. NYCRR § 701.8. While the expedited procedure allows for direct forwarding of such a grievance to the superintendent of the facility, a prisoner must still appeal a negative determination to CORC before filing suit. *Id.* §§ 701.8(h) & (i), 701.5.

7. When an inmate appeals a grievance to CORC, DOCCS Directive #4040 stipulates that it is Department policy to maintain grievance files for the current year and the previous four calendar years. CORC maintains files of grievance appeals to CORC in accordance with the directive. In fact, the CORC computer database contains records of all appeals of grievances received from the facility Inmate Grievance Program Supervisor, as well as those reviewed under the expedited procedure, which were heard and decided by CORC since 1990. This database also contains a great deal of historical data with respect to appeals to CORC back to 1986, including data on many of the individual appeals.

8. It is my understanding that plaintiff Javell Fox (DIN # 12-B-1626) brings this action against defendant Diane Labatte alleging that she interfered with his legal mail and failed to mail correspondence to public officials while he was incarcerated at Eastern Correctional Facility ("Eastern C.F.") in violation of his First Amendment rights.

9. Complaints or issues such as this are a proper subject for a grievance under DOCCS grievance procedures as outlined at 7 NYCRR § 701.1 *et seq.*

10. I have conducted a diligent search for active and closed appeals filed by inmate Javell Fox (DIN # 12-A-3638) based on grievances denied at the facility level. Attached as **Exhibit A** is a true and correct copy of the computer printouts from the CORC database reflecting the results of that search.

11. As evidenced by **Exhibit A**, plaintiff has appealed one grievance to CORC titled "Harassment/Retaliation" and assigned case number ECF-26147-14. Attached as **Exhibit B** is a true and accurate copy of the grievance appeal packet filed with CORC.

12. This grievance was filed on December 10, 2014 and was scheduled to be heard on April 15, 2015.

13. CORC issued a decision with respect to plaintiff's grievance on April 29, 2015.

14. Based on my review of **Exhibit B**, the basis of plaintiff's original grievance with the IGRC, his appeal to the superintendent, and his appeal to CORC is that he was harassed and retaliated against by correction officers and was prevented from wearing a specific hairstyle in violation of his right to free exercise of religious expression. Plaintiff does not grieve the underlying issues in this cause of action, that defendant Labatte interfered with his legal mail and failed to mail correspondence to public officials.

15. I note that inmate Fox included documents concerning his allegation that defendant Labatte interfered with his legal mail and correspondence and that this is the first instance during the procedural history of this grievance that plaintiff raises this specific allegation.

16. In order for a matter to be properly before CORC, the grievant must raise the issue in his grievance filed with the IGRC and/or the superintendent, accordingly, these issues are not properly before CORC to review in this case.

17. Because DOCCS records reflect that inmate Fox failed to appeal any grievance to CORC concerning the allegations contained in his complaint, I respectfully submit that defendant Labatte should be granted summary judgment based upon plaintiff's failure to exhaust administrative remedies as required by 42 U.S.C. 1997e(a).

Dated: May 12, 2015  
Albany County, New York

  
JEFFERY HALE

NEW YORK STATE COMMUNITY SERVICE BOARD ANTHONY J. ANNI, JR. ANTHONY J. ANNI, JR.	Grievance Number <b>ECF-26147-14</b>	Dispute Code <b>1/49</b>	Date Filed <b>12/10/14</b>
	Associated Cases		Hearing Date <b>4/29/15</b>
	Facility <b>Eastern NY Correctional Facility</b>		
<b>INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE</b>	Title of Grievance <b>Harassment/Retaliation</b>		

### GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated

CORC notes that this matter has been properly investigated by the facility administration. CO W... randomly pat frisked the grievant on 12/7/14 and found a slit cut into the waistband of his pants. Sgt. C... directed CO W... to frisk the grievant's cell; he confiscated four similar pairs of pants and denies being unprofessional. CORC asserts that there is no requirement in Department policy for a sergeant to authorize a pat frisk, and notes that religious headwear must be removed during a frisk to allow security staff to visually inspect the hair. In addition, Lt. M... and Co C... both deny harassing the grievant or being otherwise unprofessional. It is noted that he was issued a misbehavior report on 12/9/14 because his hairstyle was non-compliant with Directive #4914 and he is currently keeplocked. Staff indicate that the grievant changes his hairstyle prior to disciplinary hearings to be in compliance, but changes it back after hearings are complete.

CORC notes that Directive #4040, Section 701.1, states, in part, that the grievance program is not intended to support an adversary process and Section 701.6 (b) states, in part, that no reprisals of any kind shall be taken against an inmate or employee for good faith utilization of this grievance procedure. An inmate may pursue a complaint that a reprisal occurred through the grievance mechanism.

CORC notes that the grievant may write to whomever he wishes regarding this complaint, as long as they are not on his Negative Correspondence and Telephone List. CORC advises him that he may initiate a Freedom of Information Law Request (FOIL) for consideration to obtain the documents he is requesting in accordance with existing facility procedures, and to address safety matters to area supervisory staff.

With respect to the grievant's appeal, CORC notes that he did not identify any witnesses in either the instant complaint or upon interview with Captain W... on 12/12/14 and finds insufficient evidence of malfeasance by staff. He is advised to address correspondence issues to mailroom staff, and medical concerns via sick call.

CMV/rjq

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**Vanbergen, Chris M (DOCCS)**

---

**From:** Mauro, Thomas A (DOCCS)  
**Sent:** Tuesday, April 28, 2015 11:56 AM  
**To:** Vanbergen, Chris M (DOCCS)  
**Subject:** FW: ECF 26147-14, FOX, 12B1626

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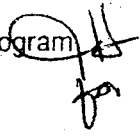
## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

### MEMORANDUM

TO: Office of Special Investigations

FROM: Karen Bellamy, Director, Inmate Grievance Program 

DATE: July 8, 2015

SUBJ: CORC Decision: ECF-26217-15

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The attached decision is forwarded to you for information.

CORC notes that the grievant (J. Fox, #12-B-1626) filed a grievance regarding a matter that is currently being investigated by your office under case #SCU-15-0123. A copy is being forwarded for whatever action is deemed necessary.

KRB/cl  
Attachment

cc: Grievance File - ECF-26217-15  
William Lee, Superintendent, Eastern NY Correctional Facility  
Thomas Mauro, IGP Supervisor, Eastern NY Correctional Facility

NY'S DEPT OF  
CORRECTIONS AND  
COMMUNITY SUPERVISION

**Eastern NY Correctional Facility**  
**CASE HISTORY AND RECORD**

RECEIVED  
INMATE GRIEVANCE

**GRIEVANCE:** ECF #26217-15

**NAME:** Fox, Javell

**DIN:** 12B1626

**TITLE:** Alleges Retaliation/Sexual Harassment

**INSTITUTIONAL/DEPARTMENTAL CODE:** I-49

**DATE FILED:** 2/23/15

**IGRC HEARING DATE:** None

**SUPERINTENDENT DATE:** 4/21/15

**APPEAL DATE:** 4/22/15

**INVESTIGATION**

**IGRC INVESTIGATION DATE:** \_\_\_\_\_

**FACILITY POLICY #** \_\_\_\_\_

**SUPERVISOR DATE:** \_\_\_\_\_

**EMPLOYEE DATE:** \_\_\_\_\_

**PRIOR CORC:** \_\_\_\_\_

**OTHER:** \_\_\_\_\_

  
\_\_\_\_\_  
Mr. Mauro, IGP Supervisor



**EASTERN NEW YORK CORRECTIONAL FACILITY**  
**CASE HISTORY**

**NAME:** Fox, Javell, Din# 12B1626 (2)

**CODE:** I-49

**ECF:** #26217-15

**REFERENCE:**

**TITLE:** Alleges Retaliation/Sexual Harassment

**SUPT.:** W. Lee

**GRIEVANCE:** [February 12 & 24, 2015] Grievant files multiple complaints regarding his interaction with staff and suggests that he is being targeted because he has filed grievances in the past. In one complaint which allegedly took place on 12/10/15 he claims that C.O. Rodriguez "told [him he's] looking sexy" and felt it was sexual harassment. In another complaint which does not indicate when the incident allegedly occurred, he claims that Sgt. Cerciari intimidated and threatened him when he was suppose to be investigating his complaint. On another complaint which allegedly happened on 1/26/15 and 1/27/15 he claims that C.O. Cruz used profane language towards him. On 1/27/15 the C.O. Cruz sexually assaulted him during a pat frisk and read his legal mail. Grievant also accuses C.O. Kozak of falsifying a misbehavior report on 1/30/15 in retaliation for the grievance he filed against C.O. Cruz. Grievant claims he is afraid for his life, and that C.O. Cruz was drunk on alcohol when the incident occurred.

**ACTION REQUESTED:**

- 1) Grievant wants employees arrested for violating the law;
- 2) he wants to be moved from West Wing where C.O. Cruz is stationed;
- 3) he wants protective custody because he fears for his life;
- 4) he wants to see a mental health professional;
- 5) he wants the Sgt. to be demoted.

**INVESTIGATION:** The investigation included an interview with the grievant and identified staff: staff denies all claims made against them.

**RESPONSE OF IGRC:** None.

**SUPERINTENDENTS RESPONSE:** [April 21, 2015] Grievance is Denied. The superintendent rejects all of the grievant's claims and accepts the denials of his staff.

**APPEAL TO CORC:** [April 22, 2015] Grievant asserts his claims and adds that the superintendent is "covering up for officer."

**APPEAL CLERK**

NEW YORK STATE Corrections and Community Supervision  ANDREW M. CUOMO      ANTHONY J. ANNUNZIO GOVERNOR      ATTORNEY GENERAL	Grievance Number ECF-26217-15	Desig /Code I/49	Date Filed 2/23/15
	Associated Cases		Hearing Date 7/8/15
	Facility Eastern NY Correctional Facility		
INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE	Title of Grievance Retaliation/Sexual Harassment		

### GRIEVANT'S REQUEST UNANIMOUSLY DENIED AS WITHOUT MERIT

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied as without merit. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that Officer R... denies making sexual comments to the grievant on 12/10/14, Officer K... denies writing a false misbehavior report on 1/30/15, and Sergeant C... denies threatening or intimidating him on 2/12/15. In addition, Officer C... denies verbally harassing him, reading his legal paperwork or dragging his personal property on the floor on 1/26/15, or pat frisking him in a sexual manner on 1/27/15 and 2/12/15. CORC notes that his allegations of voyeurism and inappropriate touching during a 2/12/15 personal search are currently being investigated by the Office of Special Investigations. CORC finds insufficient evidence of retaliation or **malfeasance** by staff.

CORC notes that Directive #4040, § 701.1, states, in part, that the grievance program is not intended to support an adversary process, and upholds the discretion of the Superintendent to assign supervising security staff to conduct grievance investigations. CORC asserts that the dismissal of a misbehavior report or charges in a report does not necessarily mitigate the circumstances of the incident, confirm malfeasance by staff, or call in to question the appropriateness of issuing the report as a means of documenting what transpired. CORC also asserts that there is no provision in Department policy for an inmate to request protective custody from staff, and that the grievant is not entitled to house where he chooses. It is noted that he was moved from the West Wing to B block, effective 3/27/15.

In regard to the grievant's appeal, CORC upholds the discretion of facility staff to determine when to conduct a pat frisk. He should address security issues to an area supervisor at the time of the incident and mental health concerns to OMH staff.

RAS/cl

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JAVELL FOX 1281626 WEST WING 22-4  
2/12/15

(49)  
Alleged Retaliation  
sexual Harassment  
& Unprofessional  
Behavior

GRIEVANCE NO 26217-15  
EASTERN CORRECTIONAL FACILITY

Employee MANUAL § 3 ( 3.4 FALSIFICATION  
OF RECORDS

On January 30 2015 I was written a  
misbehavior report by officer KOZAK, officer  
KOZAK wrote the misbehavior report in  
Retaliation of me using the grievance process  
against his peers on in particular <sup>officer</sup> COUZ,

On February 12, 2015 I was found not  
guilty of the misbehavior report. Officer  
KOZAK is MALICIOUS, AND a criminal.

Javell Z

Action Requested

Officer KOZAK Needs To Be  
ARRESTED, AND I need To Be Moved  
From WEST WING,

JAVELL FOX RB1624 WEST WING 22-4  
DATE February 12, 2015

GRIEVANCE NO. 7627-15

EASTERN CORRECTIONAL FACILITY

On January 26, 2015 I WAS MOVED  
TO WEST WING. I DON'T know why.  
Since I've been on west wing I've  
been HARASSED and sexually HARASSED.  
I WAS MOVED to WEST WING (the only  
reason I could think of) as punishment,  
a officer that control the block is  
a officer that I've written 2 prior  
grievances on, who would move me to A  
block with a officer that I've written  
2 prior grievances on and it had to be an  
investigation because of it.

Javell Fox

Action Requested

To Be Moved From WEST WING

Javell Fox 12B1626 West wing 22-4

2-12-15

21217-15

Grievance No  
EASTERN CORRECTIONAL FACILITY

Sgt Cericiari fails to do investigation.  
he tells me if this was 1998 he would  
drag me out of the cell and whatever  
happens, happens. he allows officers to  
do whatever they want and he covers  
up for them. and he tries to intimidate  
me to stop me from using the grievance  
system.

Action Requested

Javell Fox

Sgt Cericiari should be demoted, I request  
to be moved from west wing where  
he supervises, and to never have him in-  
vestigate none of my claims

26217-15

JAVELL FOX 12B1626 WW 22-04

February 24, 2014

Consolidate

Grievance No,

EASTERN CORRECTIONAL FACILITY

EMPLOYEES MANUAL § 2

CONDUCT AND ACTIVITIES OF EMPLOYEES

2.2 Lawful Comportment

Dated ~~le~~ February 12, 2015 in a  
a complaint stating 2.18 sexual abuse  
I made superintendant aware that  
I was sexually violated by officer  
Cruz pulling the back of my pants  
down, rubbing against my Buttocks, and  
rubbing my thighs and groping my  
penis and testicles. I requested to be  
moved from west wing where officer  
Cruz is the escort officer, However  
I've been left around the officer that  
violated my manhood and who comes to  
work drunk, not in an alert state  
of mind. Why I'm I being left in west  
wing around this officer who violated  
me. I request to be moved immediately

26217-15

Jaime L. Jr

Action Requested

TO BE MOVED FROM WEST WING  
AWAY FROM OFFICER CRUZ OR PLACED  
IN PROTECTIVE CUSTODY UNDER OFFICER  
CRUZ.

JAVELL FOX 12B1626 west wing 22-4 26177-  
February 12-2015

On 12-10-15 Officer Rodriguez  
told me I'm looking foxy, this is  
A Homosexual comment, And I'm furious  
At his advances.

Javell Fox  
Action Requested.

TO Be Removed From west wing  
And OFFICER RODRIGUEZ Arrested  
AND FIRED



JAVELL FOX 12B1626 West wing 22-4 26217-15  
2-12-15

Grievance No

## EASTERN CORRECTIONAL FACILITY

OFFICER CRUZ on the Above date conducted a pat frisk supposedly for safety and security before I entered the room for a hearing. OFFICER CRUZ Had me stand in a wet spot and told me to spread my legs he made me step back then he began to pull the back of my pants down. He stepped in between my legs and leaned against my Buttocks, then he patted up my legs rubbing my thigh and groping my penis and testicles then he stated "he forgot my pussy hurt. OFFICER CRUZ smelled like Alcohol. He was Drunk. these are violations of employ. manual section 2.10, 2.12, 2.18 conduct and activities of employees, this is sick behavior and i'm not gonna tolerate it no more. I don't feel safe. He also was kicking my feet.

Javell Fox

Action requested  
I request that OFFICER CRUZ be Arrested, he's constantly staring in my assigned cell at times when there is no reason to, these are Homo-sexual activities and I've been violated. I request to be moved from west wing or this whole  
to see mental health,

JAVELL FOX 12B1624 WESTWING 22-4  
February 12, 2015

GRIEVANCE NO 26217-15



EASTERN CORRECTIONAL FACILITY

On January 26, 2015 OFFICER CRUZ told me to get the fuck in my cell, he DRAGGED my Blanket on the Dirty floor. on January 27, 2015 I had a call out, he frisked me in A sexual way, but aggressive, he rubbed up my testicles and pulled my legs. the he read my legal mail. this officer is insane.

Janell Ze

Action Requested

FOR OFFICER CRUZ to be ARRESTED  
AND FIRED AND FOR me to be MOVED FROM  
WEST WING.

GRIEVANT FOX, JAVELL	DIN # 12B1626	HOUSING UNIT B3-29-001
 <b>Corrections and Community Supervision</b>	GRIEVANCE NO. 26217-15	DATE FILED 2/23/15
<b>INMATE GRIEVANCE PROGRAM</b>  SUPERINTENDENT WILLIAM A. LEE	FACILITY Eastern Correctional Facility	POLICY DESIGNATION I
	TITLE OF GRIEVANCE Alleges Retaliation/Sexual Harassment	CLASS CODE 49
	SUPERINTENDENT'S SIGNATURE 	DATE 4/21/15

Grievant alleges retaliation and sexual harassment.

The investigation included an interview with the grievant and identified staff. During the interview grievant provided no evidence or witnesses to corroborate his grievance. Staff recollected pat frisking the grievant in accordance with DIR # 4910 but denied the allegations of unprofessional behavior. The grievant was again reminded to come into compliance regarding his hairstyle. Based on this information there is no evidence to substantiate this grievance.

\*\*\*Grievance is denied.

WL: AR/ tm

#### APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent please sign and date below and return this copy your Inmate Grievance Clerk to the IGRC Office. You have seven (7) calendar days from receipt of this notice to file your appeal.\* Please state why you are appealing this decision to C.O.R.C..

Correction staff Had no reason to frisk me first of all, because I get frisked before the Hearing start in the Hearing office, correction staff have many or numerous complaint of Harassment and probable sexual Harassment. sexual Harassment touch of my penis and testicle is not proper superintendent is covering up for officer.

GRIEVANT'S SIGNATURE

Javell Z 4/22/15

DATE

GRIEVANCE CLERK'S SIGNATURE

DATE

4-24-15

\*An exception to the time limit may be requested under Directive #4040, section 701.6 (g).



## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

To: Supt. W. Lee  
From: Lt. E. Madison  
Subject: Grievance # 26217-15 submitted by inmate Fox, J 12B1626

Sir:

I have interviewed inmate Fox in regard to his complaints filed on various Officers and Sergeant Ciorciari. Inmate Fox stated to me that he had no witnesses for me to interview and had no further statements to provide. During my interview and questions in regard to said complaints inmate Fox was uncooperative and refused to answer any questions.

I have also interviewed Sergeant Ciorciari and the following Officers obtaining responses from each that inmate Fox has submitted complaints against; W. Kozack, S. Cruz, M. Rodriguez as well as a response from Sergeant P. Barg.

I find no merit in the submitted grievance by inmate Fox, he was unable to support any claim against staff. His failure to cooperate with the investigation into his submitted complaints further supports my findings. Furthermore inmate Fox's failure to comply with staff direction on a continuous basis further substantiates my reasons for finding no merit in this complaint. His attempt to utilize the grievance system for his failure to follow staff direction is evident based upon the amount misbehaviors reports he has received recently.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Lt. E. Madison".

Lt. E. Madison



26707-15

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION

EASTERN NEW YORK CORRECTIONAL FACILITY

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

PO BOX 338  
30 INSTITUTION ROAD  
NAPANOCH, NEW YORK 12458  
(845) 647-7400

WILLIAM A. LEE  
SUPERINTENDENT

TO: A. Russo, DSS.

From: A. Ciorciari, Sgt.

RE: Fox-12B1626 complaint

Date: 2/3/15

Sir,

In the above mentioned inmates complaint, inmate Fox-12B1626 alleges that Officer S. Cruz has been harassing him by using insolent language and by dragging his property on the dirty floor. He also alleges that Officer S. Cruz had him stretch his legs out too far and lean forward during a pat frisk in which this inmate stated Officer Cruz rubbed his hands roughly across his penis and testicles. This inmate had also made allegations of not being afforded opportunities to take keeplock showers.

I interviewed this inmate on 2/3/15 at approximately 10:30am at his cell 21-29. He stands by this complaint as factual, offering no evidence, witnesses, or any further information to support his allegations.

I spoke with Officer S. Cruz who stated to me that he never dragged this inmates property on any floor. He also stated to me that he never harassed this inmate by using abusive or insolent language while dealing with him. Officer Cruz did infact conduct a pat frisk on this inmate upon entering his call out. Officer Cruz did state that he ordered the inmate to put his hands on the wall on step back so he could perform a pat frisk. He added that at no time did he have to inmate step back too far. He also stated at no time did he ever rub his hands roughly over inmate Fox's penis or testicles. The pat frisk was done in accordance with directive 4910, page 3, section B. Officer Cruz told me he at no time denied this inmate a chance to take a shower.

Prior to inmate Fox's transfer from South Hall to West Wing, Officer Rziemiencki offered this inmate a keeplock shower at approximately 10:30am. Inmate Fox refused the shower and it was logged in the block log book.

Based on my investigation, information retrieved from the log book, and staff memorandums, I find no evidence to substantiate the allegations fabricated by this inmate. Inmate Fox attempted to manipulate staff by refusing a shower in South Hall and file a complaint that he was denied a shower in West Wing. Officer Cruz conducted himself in a professional manner at all times while dealing with this inmate. Lastly, I find this complaint to be baseless and without any merit.

Respectfully submitted,

Sgt. A. Ciorciari



# Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

To: Lieutenant Madison  
From: Correction Officer W. Kozack  
Subject: Inmate Fox Din# 1281626  
Date: 3/13/15

On JANUARY 30<sup>th</sup>, 2015, I, CO Kozack wrote a misbehavior report on Inmate Fox Din# 1281626 because he was exercising with his cane in the West Wing Keep Back yard. According to the medical restriction report written by Dr. Andola, Inmate Fox was issued a cane because he had a bad back and was not allowed because medical restriction stated "no exercising Allowed." I, CO Kozack, am not aware of any prior grievances made toward other West Wing officers.

Respectfully Submitted  
Correction Officer W. Kozack  
Correction Officer W. Kozack

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONAL SERVICES  
EASTERN CORRECTIONAL FACILITY

TO : SGT. BARG  
FROM : C/O M. RODRIGUEZ  
SUBJECT: INMATE FOX 12B1626(224)  
DATE : 3/16/15

I OFFICER M. RODRIGUEZ WAS NOT WORKING  
IN WEST WING ON 12/10/15. AT NO TIME I  
MADE ANY COMMENTS OR ADVANCES TOWARD  
INMATE FOX 12B1626.

Respectfully  
Submitted,  
M. Rodriguez



## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

To: Lt. E. Madison

From: P. Barg Sergeant

Subject: Fox 12B1626 conduct grievance#26217-15

Date: March 20, 2015

Sir:

I have conducted an investigation into inmate Fox's 12B1626 4 combined grievances and can not find any merit or substance to this inmate's allegations. I interviewed the inmate and he nothing to add or retract from any of the grievances. I asked the inmate if he had any witnesses to the alleged incidents and he claimed to. When asked to supply names so I could interview them he stated they don't want to talk to security. He additionally stated that he needs to be protected from staff.

I interviewed Officer M. Rodriguez and he stated that he has made no comments or advances towards inmate Fox. He additionally stated that he has not had the opportunity to work in West Wing on 12-10-15 since it has not occurred yet. If the inmate meant 12-10-14 and he is only reporting it on 2-12-15 the grievance is untimely.

I also interviewed Officer Cruz about the allegations and he denies all of them. He pat frisked the inmate prior to a tier Hearing which is good correction practice according to Directive 4910. He has also ordered the inmate to come into compliance with grooming standards due to his hair style. The inmate refused and he was written up by Officer Cruz which I feel why these allegations are being brought.

Finally the one thing that carries all the way through all 4 of the grievances is that the inmate does not like the fact that he houses in West Wing.

Respectfully Submitted

P. Barg Correction Sergeant

A handwritten signature in black ink, appearing to read "P. Barg Sgt.", written over the typed name.





## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

To: Lt. E. Madison  
From: Sgt. A. Ciorciari  
Subject: Inmate Fox 12B1626 grievance 26217-15  
Date: 3/25/15

---

Sir,

On the date in question, 2/12/15, I did in fact interview the above named inmate in regards to one of his complaints. I asked the inmate a series of questions that pertained to the nature of his allegations towards staff. At no time during that interview did I ever mention to this inmate what he alleges. I never stated if this was 1998 I would drag him out of his cell and whatever happens, happens. I do not allow Officers to do whatever they want, nor do I cover up for them. I have never tried to intimidate this inmate or any other inmate.

This inmate filed a complaint on 2/12/15 alleging the same accusations. That complaint was answered by me on 2/20/15. It is this writer's belief this inmate is attempting to manipulate staff and the grievance system by repeatedly filing the same grievance.

As a supervisor I have never conducted myself in any manner that could be considered unprofessional and or disrespectful towards any inmate or staff member. To state that I have acted inappropriate and or confrontational is a complete misrepresentation of myself, and the level of professionalism I display while on duty.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "A. Ciorciari".

Sgt. A. Ciorciari



## Corrections and Community Supervision

**ANDREW M. CUOMO**  
Governor

**ANTHONY J. ANNUCCI**  
Acting Commissioner

To: Lt. C. Haugen  
From: Sgt. A. Ciorciari  
Subject: Fox-12B1626 complaint  
Date: 2/20/15

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Sir,

On 2/12/15, I did in fact interview this above named inmate in regards to one of his previous complaints. During that interview, I asked the inmate several questions in regards to his complaint. I never at any time stated that back in 1998 he would have been dragged out of his cell and whatever happened, happened. I conducted myself in professional manner throughout the interview with this inmate.

Respectfully Submitted,

Sgt. A. Ciorciari



## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

### MEMORANDUM

**To:** Sgt. Barg

**From:** C.O. S. Cruz

**Subject:** Fox 12B1626 Grievance# 26217-15

**Date:** 03/21/15

---

On January 26, 2015 Inmate Fox 12B1626 was South Hall to West Wing and was in Keeplock status. I never harassed or sexually harassed inmate Fox. One of my duties as the West Wing #2 officer is to assist the #1 officer and maintain movement on and off the block. I don't no why inmate Fox was moved to West Wing that is controlled by the movement Sergeant. While on duty at Eastern Correctional Facility I conduct my self in a professional manner at all times.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "C.O. S. Cruz".

C.O. S. Cruz



## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

### MEMORANDUM

**To:** Sgt. Barg

**From:** C.O. S. Cruz

**Subject:** Inmate Fox 12B1626 Grievance #26217-15

**Date:** 03/16/15

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On January 26, 2015 I C.O. S. Cruz was on duty as the #2 officer in West Wing. Inmate Fox did move to 21-29 cell from South Hall. I did help inmate Fox move his property due to the fact inmate Fox was walking with a cane. I picked inmate Fox's mattress up and never dragged it on the floor. When I unlocked inmate Fox's cell I didn't say or use any obscene vulgarity towards inmate Fox. All these allegations inmate Fox has stated are all false. I did escort Inmate Fox to the guard room floor for a call out. Before entering his call out I conducted a pat frisk on him and his personal property (envelope with legal paper work in it) per Directive# 4910. At no time have I harassed, or deny him a keep lock shower. While on duty at Eastern Correctional Facility I conduct myself in a professional manner at all times.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "C.O. S. Cruz".

C.O. S. Cruz



## Corrections and Community Supervision

ANDREW M. CUOMO  
Governor

ANTHONY J. ANNUCCI  
Acting Commissioner

### MEMORANDUM

**To:** Sgt. Barg

**From:** C.O. S. Cruz

**Subject:** Inmate Fox 12B1626 Grievance #26217-15

**Date:** 03/16/15

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On 2/12/15 I, Officer S. Cruz, escorted Inmate Fox 12B1626 to West Wing court. To maintain safety all keep lock Inmates are pat frisked before being escorted out of the block. I did not grope, rub or pat frisk Inmate Fox in a sexual manner. The pat frisk was conducted in compliance with Directive #4910. I did not kick Inmate Fox's feet, pull down his pants or try to provoke him in any manner. At no time did I make inappropriate comments to Inmate Fox. While on duty at Eastern Correctional Facility I conduct myself in a professional manner at all times.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "S. Cruz", written over a large, stylized circular flourish.

S. CRUZ

**EASTERN NEW YORK CORRECTIONAL FACILITY  
NAPANOCH, NEW YORK 12458  
INTERDEPARTMENTAL COMMUNICATION**

**DATE: 2/23/15**

**TO: W. LEE, Superintendent**  
**FROM: T. MAURO, Inmate Grievance Supervisor**  
**SUBJ.: PERSONAL CONDUCT - ECF# 26217-15**

**Per Directive #4040, please review the attached grievance that is being forwarded to your office for Code determination.**

      : Not considered Code 49, process as a regular grievance

  X  : Process as Code 49, Staff Conduct

*+ copy to DSS -*

Superintendent *T. Mauro*

Dated *2/23/15*

9:16:32 Monday, June 29, 2015

06/29/15

LOCATOR SYSTEM

KLOCM6B

INTERNAL MOVEMENT HISTORY DISPLAY

99 CENTRAL OFF

DIN 12-B-1626 NYSID 09387063-Y FACILITY EASTERN GEN LOCATION B3-29-001  
 NAME FOX, JAVELL DOB 10/26/82 SEX M E/R NB

FACILITY	EFFECTIVE DATE	DATE ENTERED	FROM	TO
EASTERN GEN	12/23/14	12/23/14	SH-12-018	HS-02-I01
	12/26/14	12/26/14	HS-02-I01	SH-12-018
	12/26/14	12/26/14	SH-12-018	SH-16-004
	01/08/15	01/08/15	SH-16-004	SH-16-002
	01/26/15	01/26/15	SH-16-002	WW-21-29S
	02/04/15	02/04/15	WW-21-29S	WW-22-004
	03/27/15	03/27/15	WW-22-004	B3-29-001

\*\* AT END OF REQUESTED HISTORY SCAN \*\*

<ENTER> CONTINUE    <PF3> EXIT(FUNCTION)    <PF4> RETURN    <CLEAR> EXIT(SYSTEM)  
 <PF7> SCROLL BACKWARD    <PF8> SCROLL FORWARD

9:14:00 Monday, June 29, 2015

06/29/15 CIGRRAS  
09:13:56 CINSN021DISCIPLINARY SYSTEM  
990 CENTRAL OFFICE  
DISCIPLINARY INCIDENT SUMMARYKDCPM40  
PAGE 4  
MANUAL RECS NDIN: 12B1626 NYSID: 09387063Y NAME: FOX, JAVELL  
CURRENT FACILITY: 100 EASTERN GEN CURRENT HOUSING LOCATION: B3-29-001

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TIER 2	INCIDENT: 03/06/15 09:00 AM	CO	CRUZ, S R	EASTERN GEN
	HEARING : 03/20/15 10:20 AM	LT	SIMMONS, K D	EASTERN GEN
	APPEAL : 03/26/15 AFFIRMED	DSS	RUSO	EASTERN GEN

118.30 UNTIDY 106.10 DIRECT ORDER

30D KEEPCLOCK	RECREATION	PACKAGE	SERVICE DTES 03/20/15 04/19/15
30D COMMISSARY	PHONE	SPEC EVENT	SERVICE DTES 03/20/15 04/19/15

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NEXT DIN:

<CURSOR + ENTER> INC DETAIL  
 <ENTER> <PF3> EXIT(FUNCT) <PF7> BACKWARD <CLEAR> EXIT(SYSTEM)



8:14:04 Monday, June 29, 2015

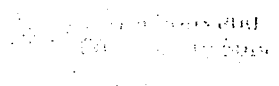
06/29/15 CIGRRAS DISCIPLINARY SYSTEM KDCPM40  
 09:14:01 CINSN021 990 CENTRAL OFFICE PAGE 5  
 DISCIPLINARY INCIDENT SUMMARY MANUAL RECS N

DIN: 12B1626 NYSID: 09387063Y NAME: FOX, JAVELL  
 CURRENT FACILITY: 100 EASTERN GEN CURRENT HOUSING LOCATION: B3-29-001

-----  
 TIER 3 INCIDENT: 01/04/15 12:45 PM SGT BEY, D S EASTERN GEN  
 REPORTED: 01/05/15  
 HEARING : 01/16/15 10:54 AM DSA WENDLAND, R EASTERN GEN  
 APPEAL : 03/04/15 AFFIRMED ADIR VENETTOZZI CENTRAL OFF  
 106.10 DIRECT ORDER  
 60D KEEPLOCK PACKAGE COMMISSARY SERVICE DTES 01/05/15 03/06/15  
 60D PHONE SERVICE DTES 01/05/15 03/06/15  
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NEXT DIN:

<CURSOR + ENTER> INC DETAIL  
 <ENTER> <PF3> EXIT(FUNCT) <PF7> BACKWARD <CLEAR> EXIT(SYSTEM)

 ANDREW W. L... ANTHONY A. A...	Grievance Number <b>ECF-26147-14</b>	Design Code <b>I/49</b>	Date Filed <b>12/10/14</b>
	Associated Cases		Hearing Date <b>4/29/15</b>
	Facility <b>Eastern NY Correctional Facility</b>		
<b>INMATE GRIEVANCE PROGRAM</b> <b>CENTRAL OFFICE REVIEW COMMITTEE</b>		Title of Grievance <b>Harassment/Retaliation</b>	

### GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby accepted only to the extent that CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that this matter has been properly investigated by the facility administration. CO W... randomly pat frisked the grievant on 12/7/14 and found a slit cut into the waistband of his pants. Sgt. C... directed CO W... to frisk the grievant's cell; he confiscated four similar pairs of pants and denies being unprofessional. CORC asserts that there is no requirement in Department policy for a sergeant to authorize a pat frisk, and notes that religious headwear must be removed during a frisk to allow security staff to visually inspect the hair. In addition, Lt. M... and Co C... both deny harassing the grievant or being otherwise unprofessional. It is noted that he was issued a misbehavior report on 12/9/14 because his hairstyle was non-compliant with Directive #4914 and he is currently keeplocked. Staff indicate that the grievant changes his hairstyle prior to disciplinary hearings to be in compliance, but changes it back after hearings are complete.

CORC notes that Directive #4040, Section 701.1, states, in part, that the grievance program is not intended to support an adversary process and Section 701.6 (b) states, in part, that no reprisals of any kind shall be taken against an inmate or employee for good faith utilization of this grievance procedure. An inmate may pursue a complaint that a reprisal occurred through the grievance mechanism.

CORC notes that the grievant may write to whomever he wishes regarding this complaint, as long as they are not on his Negative Correspondence and Telephone List. CORC advises him that he may initiate a Freedom of Information Law Request (FOIL) for consideration to obtain the documents he is requesting in accordance with existing facility procedures, and to address safety matters to area supervisory staff.

With respect to the grievant's appeal, CORC notes that he did not identify any witnesses in either the instant complaint or upon interview with Captain W... on 12/12/14 and finds insufficient evidence of malfeasance by staff. He is advised to address correspondence issues to mailroom staff, and medical concerns via sick call.

CMV/rjq

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26217-15

**Mauro, Thomas A (DOCCS)**

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**From:** Mauro, Thomas A (DOCCS)  
**Sent:** Wednesday, March 25, 2015 1:40 PM  
**To:** Russo, Anthony C (DOCCS)  
**Subject:** 26217-15, Fox, 12b1626

Sir,

Please be advised that I have not received a complete investigation for this grievance. It was sent to LT. Madison on 2/24/15. What I do have in my possession is a response memo fro SGT C. to you dated 2/3/15 in response to a complaint from the I/M. I am missing an investigation following the receipt of the "grievance complaint" and a memo from CO Cruz. This memo was provided to me in response to a complaint that was to be consolidated in the same. Again, the red folder with a complete investigation was not received by me. If you need a copy let me know! This complaint was also forwarded to you to be logged in PREA book.

Thanks, Tom

**Thomas A. Mauro**

Inmate Grievance Program Supervisor

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